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ABSTRACT

American Indian educational accountability constitutes the subject of these 1973 and 1974 Senate hearings. Testimony is presented for representatives from: the National Advisory Council on Indian Education; the Bureau of Indian Affairs (BIA); and the Institute for the Development of Indian Law. Also presented in this document is an extensive appendix which includes the following: 1951-53 Indian Affairs manual; Memorandum of Understanding between the U.S. Office of Education (USOE) re: Title I of the Elementary Secondary Education Act; letters; Title I report from the BIA for 1973 projects; Department of the Interior (DOI) audit of Johnson O'Malley (JOM) assistance to Independent School District Number 22 of Kirtland, New Mexico (1969-72); DOI audit findings re: JOM program for the Juneau Area Office (1970-72); administrative determination on appeal and petition of Molly Hootch by Juneau's Area Director (1973); memorandum of points and authorities in support of petitioners' appeal of BIA administrative determination re: Molly Hootch appeal; DOI audit of BIA contracts with Oklahoma (1970-72); memorandums re: outplacement programs for BIA employees affected by Indian tribal takeover and transmission of guidelines to tribes; secretarial objectives of Indian controlled schools; the President's 1970 message to the Congress re: recommendations for Indian policy. (JC)

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# INDIAN EDUCATION ACCOUNTABILITY

AUG 1976
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## HEARINGS

BEFORE THE

SUBCOMMITTEE ON
ADMINISTRATIVE PRACTICE AND PROCEDURE

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-THIRD CONGRESS

FIRST AND SECOND SESSIONS

DECEMBER 13, 1973
AUGUST 22, 1974

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# CONTENTS

## HEARING DAYS

Page
December 13, 1973 .......... 1
August 22, 1974 .......... 31

## TESTIMONY

Opening statements:

Kennedy, Hon. Edward M., chairman, Subcommittee on Administrative Practice and Procedure .......... 1
Kennedy, Hon. Edward M., chairman, Subcommittee on Administrative Practice and Procedure .......... 31

Witnesses:

Antell, Dr. Will, chairman, National Advisory Council on Indian Education .......... 48
Billedeaux, Dwight A., executive director, NACIE .......... 48
Bruce, Bob, legislative specialist, BIA .......... 33
Clifford, Gerald, consultant, coalition of Indian-controlled school boards .......... 24
Holmgren, Elizabeth, research specialist, BIA .......... 33
Jones, Myron, director, Indian Education Training, Inc .......... 17
Kickingbird, Kirke, director, Institute for the Development of Indian Law .......... 3
Marich, Edward, administrative officer, BIA .......... 33
Osborne, Ramona, education administration specialist, Division of Education, BIA .......... 13
Shelby, Lynn, educational specialist, Institute for the Development of Indian Law .......... 3
Skye, Clarence, council member, NACIE .......... 48
Sockeye, Dr. Clennon E., Director, Office of Education Programs, BIA .......... 33
Waddell, Jerry, Division Chief, Internal Services, BIA .......... 33

## APPENDIX

Indian Affairs manual, section on administrative organization of education programs, including educational policy and objectives, 1951-53 .......... 65
Memorandum of Understanding between BIA, and Office of Education, relative to title I, Elementary and Secondary Education Act of 1965, April 28, 1971 .......... 69
Letter to James E. Hawkins, Director of Education Programs, BIA, from Richard L. Fairley, Director, Division of Compensatory Education, Office of Education, April 29, 1971 .......... 72
Memorandum and enclosures to all area offices from James E. Hawkins, Director of Education Programs, BIA, re title I, ESEA—organization and responsibilities, May 11, 1971 .......... 72
Title I, report, BIA, for fiscal year 1973 projects, January 1973 .......... 77
Revised title I, ESEA, Functional responsibilities at the Central Office, Area Office, LEA levels, BIA, December 3, 1973 .......... 111
Audit by DOI of Johnson-O'Malley financial assistance to the Independent School District No. 22, Kirtland, N. Mex. from July 1, 1969-April 30, 1972 .......... 130
Audit findings, DOI, of the Johnson-O'Malley program for the Juneau Area Office, fiscal years 1970-72 .......... 135
Administrative determination on appeal and petition of Molly Hootch et al., by Morris R. Thompson, Area Director, Juneau Area Office, BIA, August 15, 1973 .......... 138

Page
Memorandum of points and authorities in support of petitioners appeal of BIA administrative determination (appeal and petition of Molly Hootch et al.) filed by Eric E. Van Loon, October 18, 1973 ........ 142
Audit by DOI of BIA contracts with State of Oklahoma for education of Indian children in Oklahoma Public Schools, from July 1, 1970 to June 30, 1972 ........ 162
Memorandum from Louis R. Bruce, Commissioner of Indian Affairs, re outplacement program for BIA employees affected by takeover of services by Indian tribes or organizations, December 10, 1970 ........ 177
Memorandum from Louis R. Bruce, Commissioner of Indian Affairs, re transmitting informational guidelines for education services through Indian tribes, BIA manual (20 BIAM), April 24, 1972 ........ 178
Memorandum from W. H. Hogans, Deputy Assistant Secretary of the Interior, re reassignment of education personnel, May 3, 1973 ........ 201
Information from Office of Indian Education Programs, BIA, re secretarial objectives of Indian-controlled schools, and effectiveness and accountability of Bureau educational programs, April 17, 1974 ........ 202
Transmittal sheet, DOI, re organization of BIA, departmental manual, May 20, 1974 ........ 204
Report of the Task Force on Indian Education, 1971 ........ 215
Statement on urban Indian education from a summary report by Robert J. Havighurst ........ 234
The American Indian In School, Bulletin/Study, Office of Education, HEW ........ 239
Section on Education, President's July 8, 1970 message to the Congress, re recommendations for Indian policy ........ 261
Recommendations for Indian Policy, reproduction of complete message of President to Congress, July 8, 1970 ........ 263
Letter to President Richard M. Nixon from NACIE, November 19, 1973 ........ 287

# INDIAN EDUCATION ACCOUNTABILITY

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THURSDAY, DECEMBER 13, 1973

U.S. SENATE,
SUBCOMMITTEE ON ADMINISTRATIVE
PRACTICE AND PROCEDURE OF THE
COMMITTEE ON THE JUDICIARY,
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 1114, Dirksen Office Building, Senator Edward M. Kennedy (chairman of the subcommittee) presiding.

Present: Senators Kennedy (presiding) and Thurmond.

Also present: Thomas Susman, counsel; Harold M. Gross, consultant; Wynne W. Moskop, staff member.

Senator **KENNEDY**. The subcommittee will come to order. The Federal Government's continuing failure to provide adequate education programs for American Indians has been demonstrated time and again. Each year Congress appropriates millions of dollars for scores of programs in the Office of Education and the Bureau of Indian Affairs aimed at serving the educational needs of Indians. And each year the bureaucracies charged with spending these funds and administering these programs come back to the Hill for more money.

Yet the money and the good intentions somehow get so filtered and diverted and manipulated that the Indian child winds up with a handful of unmet needs and dashed expectations. The child asks his mother and his teacher why. They in turn ask the local school officials, the administrators in Washington, and eventually the Congress why.

Indian educators and tribal leaders, as well as parents and teachers, have been unable to discover what portion of the funds appropriated for Indian education programs really reaches and benefits Indian children, what results are expected from those programs, and what results are actually obtained. This subcommittee seeks answers to those questions. That is why we are having this hearing today.

Our search has to date led us through a maze, studded with obstacles, riddled with dead ends, and ultimately has led us back to where we started. I have arrived at the reluctant conclusion that no one in the bureaucratic structure of OE or the BIA really knows the answer to these questions. No one is accountable. And meanwhile, the hundreds of millions of dollars annually allocated for the education of Indian children never reaches those children. Let me share some examples of our preliminary findings:

In the State of Alaska, $2.8 million in Johnson-O'Malley funds distributed by the BIA to the State were neither expended nor accounted for by the State; and the BIA accepted a report of that situation without requiring more from the State.

An audit of 23 Oklahoma school districts shows that approximately 14 percent of the Johnson-O'Malley money in those schools was used for ineligible students; 106 other Oklahoma school districts are apparently doing the same thing, and the BIA has done nothing about it.

In two New Mexico school districts, $166,000 more money was received by the districts from the BIA than expended by the districts in a 2-year period, with none of the overage credited for subsequent years and none returned to the Federal Government. Where has that money gone?

The BIA has more than 7,000 employees paid out of Snyder Act appropriations for educational purposes, more than 60 percent of its work force, yet claims to lack the manpower to provide adequate reports of the ways in which educational expenditures have been made, or to evaluate the effectiveness of particular educational programs.

The Office of Education, charged by Congress with major responsibilities in the field of Indian education, has no clear idea of how much it spends on Indian education, or how much of the money it disburses actually gets through to benefit Indian children.

The BIA, which makes annual contracts with the States to provide supplementary programs for Indian children under the Johnson-O'Malley Act, does nothing to enforce these contracts, and nothing to evaluate the use of these funds by States or school districts. Meanwhile, an attempt to draft improved regulations by Indian educators has been bogged down in BIA bureaucracy for almost 3 years, and the BIA now threatens to release regulations totally inconsistent in purpose and meaning with those recommended by the Indian educators.

As with so many of the startling and disgraceful revelations regarding Federal Indian programs, these findings do not stand as new or unique. They appear to reflect a policy against setting policies, and to reflect procedures designed to insulate officials from responsibility and accountability to both the Congress and the Indian people.

Back in 1969, the special Subcommittee on Indian Education, which I chaired, reported that "one of the most serious problems encountered was the lack of meaningful information and statistics that could be provided by the BIA * * *. One can only wonder how an agency with such responsibility * * * can possibly determine the effectiveness of its own programs without having available—and without making the effort to compile it—basic information necessary to evaluation."

An April 1972 GAO report on Indian education observed that "the situation has not changed significantly since 1969. The BIA still has not developed and implemented an information system which would provide the data needed for effective administration and management of the BIA school system."

And a May 1973 report by the Bureau of Social Science Research reported: "Nowhere to be found a reliable and comprehensive set of data" on the distribution of Federal funds for Indian students in public or BIA schools.

We start this morning with a clear picture of two kinds of accountability seriously lacking in both OE and BIA Indian education programs:

First, fiscal accountability, so that the uses of funds appropriated for Indian education can be accurately determined and evaluated by the community of people supposedly served, by the administrators within the Federal agencies responsible for that service, and ultimately by the Congress.

Second, educational accountability, so that the effectiveness of programs in achieving educational goals can be measured and evaluated. This, of course, would require the BIA, as well as the Office of Education, to define its educational goals as a first step.

This administration has often given lip service to the principle of self-determination as a guiding beacon for its administration of Indian affairs. But so far Indian education officials have gotten lost in the storm. The fact is that no local school board, no community education committee, not even a national advisory council can exercise meaningful control of educational policy unless that policy has some direct relationship to the programs being implemented and unless that body is able to obtain an accurate idea of what funds are being spent, what funds are available, and what alternatives exist.

This morning we plan to examine the current administrative practices and procedures relating to fiscal and educational accountability in the BIA and OE, and to consider proposals for the implementation of remedial action where necessary. We hope to develop some specific recommendations from our efforts, and we will be looking to the appropriate Federal agencies to respond to these recommendations early next year.

As one who has succeeded Senator Robert Kennedy as chairman of the Indian Education Committee, the opportunities and problems of Indian education have long been of interest to me.

We meet this morning as a subcommittee of the Judiciary Committee, primarily concerned with administrative practices and procedures that have been established by governmental agencies. What we are interested in is how the Bureau of Indian Affairs establishes Indian educational policy, if they do; and if they don't, why not; and if they do, what procedures are established for evaluating that policy? Do they have procedures for expanding the good programs and eliminating the bad programs? What are the standards, the goals, the objectives? How is the money spent, where is it spent, who influences how it is spent, what are the results when it is being spent? How can it be better spent?

We want to welcome a group of witnesses this morning that has given a great deal of time to these particular issues. We are going to hear in the future, responses from those that are or should be charged with responsibility in both the Office of Education and the Bureau of Indian Affairs.

Our first witnesses are Mr. Kirke Kickingbird, the Director for the Institute for the Development of Indian Law, and Lynn Shelby, educational specialist, Institute for the Development of Indian Law.

## STATEMENT OF KIRKE KICKINGBIRD, DIRECTOR, INSTITUTE FOR THE DEVELOPMENT OF INDIAN LAW, AND LYNN SHELBY, EDUCATIONAL SPECIALIST, INSTITUTE FOR THE DEVELOPMENT OF INDIAN LAW

Mr. Kickingbird. Mr. Chairman, I am Kirke Kickingbird, Executive Director of the Institute for the Development of Indian Law. Mr. Chairman, I would like to thank you and the members of the

Subcommittee on Administrative Practice and Procedure for inviting me to participate in these hearings. I am an attorney originally from Oklahoma. While in the Congressional Relations Office of the Bureau of Indian Affairs, I participated in a U.S. Office of Education-Bureau of Indian Affairs evaluation of the use of title I (ESEA) funds in Federal Indian boarding schools. I am currently involved with Indian education as Chairman of HEW's Office of Civil Rights Native American Task Force. Although the Institute for the Development of Indian Law is primarily concerned with land, taxation and treaty issues, we publish a monthly education journal to keep tribal members in their home communities informed about the developments in the field of education which may affect their children. Education is of continuing interest to Indian parents.

An individual working in Indian education quickly becomes aware of the significant shortcomings in the accountability processes of both BIA and USOE. There is a lack of accountability in the fiscal and administrative management process and in the development of educational policies. OE staff, as well as Indian people, have experienced difficulty determing how policy is developed and implemented and how money is allocated and spent. This experience is not unlike that of Senator Pell's, who in debate on S. 659 regarding the legislative establishment of internal structure at the U.S. Office of Education remarked: "The activities of the Office of Education, giving one impression to me, another to Senator Montoya, a third to school officials indicates that legislation on this subject may be necessary." 118 Cong. Rec. S. 2728 (daily ed. Feb. 28, 1972). It seems to me that educational programs affecting American Indians should have definable goals and that those goals should feature participation and control by Indian parents. OE and BIA seem never to have had any real goals in Indian education outside the broad headings of advocacy and service.

At this time I would like to introduce Ms. Lynn Shelby, the member of my staff principally concerned with educational matters. She has testimony detailing shortcomings of the U.S. Office of Education.

Ms. SHELBY. Thank you.

I have a complete statement here that I would like to highlight here.

Senator KENNEDY. I want to welcome Senator Thurmond, a member of this committee.

Senator, we welcome you here. We are concerned about the procedures that have been developed within the BIA and also within OE on Indian education programs; the accountability procedures that have been developed within these agencies, if such procedures have been developed, and how that money is actually spent through the educational system, what comes out on the other end, whether there is a procedure to expand beneficial programs or eliminate wasteful programs, what goals were established, and what standards are being developed to evaluate the existing Federal educational programs.

We have some people here who have given a good deal of time and thought to this program. We have Mr. Kirke Kickingbird, who is the director of the Institute for the Development of Indian Law and Lynn Shelby, a specialist at the Institute who is about to speak.

Ms. SHELBY. Thank you.

I am grateful for this opportunity to speak before this subcommittee about Federal agency accountability with respect to Indian educational programs, because I have been involved in monitoring such programs for 3 years. I want to emphasize that problems of accountability exist within OE, just as they do in the BIA.

As an employee of the U.S. Office of Education's Office of American Indian Affairs, I was involved in collecting statistics for an Indian education task force paper. The purpose cited by the Commissioner of Education was to identify for the agency the extent of OE involvement in Indian education, and to identify for the agency its expenditures in Indian education. In reality, OE knew that hearings were pending in Congress concerning the need for a comprehensive Indian Education Act and this task force was hurriedly pulled together to educate the bureaucracy about its own activities in Indian education. It also was to give the Commissioner and his staff some ammunition to defend the administration's posture against special legislation for minority groups.

There were only two Indian staff persons within the entire agency—Mr. Purnell Swett in Adult Basic Education, and Mrs. Scheirbeck of OAIA, an advocacy office. Because people tend to be most interested in their own communities, our job was made much more difficult by the lack of Indian staff persons, for no one in the agency program staffs had adequate information regarding the Indian community.

During the first week of my efforts, I discovered that no one within the U.S. Office of Education or HEW knew precisely how, what and where funds for Indian education were being spent. USOE officially claimed, however, a figure in the area of $69 million for fiscal year 1972. We believed that these figures were badly understated. Eventually, we came up with $79 million allocated.

A quick glance at the figures prepared by the Budget Office told me they were inaccurate in at least two programs with which I was very familiar. I asked the Budget Office how they arrived at the figures. The practice of asking the bureau chiefs was questionable, since we later discovered that the higher up in a particular bureau we went, the less specific information we could obtain. The entire process of arriving at official figures was very loose and peculiar. Determined to find exact figures, I went to the program level for assistance.

Indian educational programs are scattered throughout the five deputy commissioners divisions and bureaus of the Office of Education. In most cases, program officers become "collectors" as they put it, of Indian projects within their program area. Once I identified the collector, my task became easier. Since there were relatively few Indian educational projects, in no instance was there more than two people administering Indian educational projects within a single program area. It was through working with these program officers that I began to evolve a set of statistics. It is these statistics which were used for the task force report and which I am submitting here as part of my testimony. They later became the official Indian education figures for the agency.

3. That the Deputy Commissioner for School Systems set up a special monitoring plan and schedule for reviews of title I projects.

4. That OE study several alternatives to obtain the best possible guidance from Indian educators and representatives.

5. That OE take steps in the development of a policy on the issue of local control in off-reservation settings.

6. That there be a research focus on the educational needs of urban Indians and provision of technical assistance and improved educational services for urban Indian children.

None of these recommendations have been acted upon to this date. It was not until the passage of title IV of Public Law 92-318, the Indian Education Act of 1972, that USOE was forced to take action by the Congress. This required both a fiscal and educational policy, which however, OE has not yet developed.

In addition, there are problems of duplication of effort and lack of coordination. For example, at that time Teacher Corps and career opportunity program (COP), and the bilingual teacher training program were all teacher training programs. COP has been eliminated, but the other two still remain. Both the bilingual program and the EPDA bilingual teacher training program deal with bilingual education. The adult basic education program also has bilingual programs within it. There was very little or no communication between the staff people of various programs about Indian education. In fact, there was one instance where two similar programs were serving the Crow Reservation and neither of the OE staff persons knew about it until they landed on the reservation. Obviously, related programs would work more efficiently if they worked together.

The agency cannot be relied on to achieve this kind of coordination without a specific requirement by Congress. The task force's efforts to coordinate Indian education is such an example. Without a legislative mandate it died on the Commissioner's desk and no administrative changes materialized. USOE on numerous occasions convened other task forces to solve problems. I had been participating in a bilingual task force for several weeks when I was asked to participate in a second bilingual task force conducted by another office, operating on opposite sides of the same floor on different days of the week. Not all the participants were the same, except the "advocates" from the minority offices. It was these representatives who pointed out to the group that a similar task force had been in process for over a month. Until then, the second task force was unaware of the existence of the first. In other words, the administrative process meant to eliminate duplication had in fact resulted in duplication.

The Indian Education Act of 1972, now requires some coordination within OE of Indian programs. It is interesting to note that the purposes of the act were thwarted in many instances by the agency and the Nixon Administration. But due to the combined efforts of many Indian people, organizations, and our friends in Congress, such as the chairman of this subcommittee, the bill was funded and passed * * * and finally, and reluctantly, implemented by the administration.

I would like to make the following recommendations for improving USOE's accountability with respect to Indian education:

I question the figures quoted me by the title I program ESEA budget officer. As a USOE employee I had difficulty in obtaining information from the title I program. I could have obtained the figures more easily had I worked for a congressional staff. I was told repeatedly by title I program staff that the kind of information I wanted could not be obtained since USOE did not single out Indians (or any other minority group) in its accounting systems and because it was a monumental task for the computer for which they did not have the time. However, BIA, which administers half of the title I funds for Indians, does render an annual report. I offer it for the record as an example, but do not vouch for its accuracy. If there were any program reports, I was not permitted to see them, so that I had to take the figures quoted by the title I officers on good faith.

The unwillingness by OE to develop special Indian statistics ignores the fact that Indians often have special entitlements, legally and constitutionally, with specific set-asides in much of the authorizing legislation for Indians. OE's programs should be coordinated with other Indian education efforts, for example, those of the BIA (especially Johnson-O'Malley) which is impossible unless the OE programs are coordinated with one another, and seen as a total effort, and accounted for accordingly.

We collected policy information and staffing statistics as well as financial figures. Most program personnel said that "Indians are a priority area." Instead of precise goals or policy, Indians were simply labeled a priority. What a priority meant to a USOE program officer relative to Indian educational programs was never clearly outlined, and varied from one program officer to another, his or her bureau chief or the Commissioner of Education.

Let me use the bilingual education program as an example. Under the Bilingual Education Act, there is a specific provision regarding Indians. Yet, under the system in USOE—with no policy for Indians except being a priority area—Indian projects were funded with bilingual funds, but program officers had no guidance as to educational goals with respect to Indian bilingual programs, and no experience dealing with Indian bilingual needs, insofar as they related to other special Indian educational needs. Clearly, bilingual programs for Indians should be related to other Indian education programs within OE and BIA.

The fact was, that as of 1972 USOE did not have a policy with respect to Indian education. The task force report which supported the formulation of and made recommendations for an Indian education policy died on the Commissioner's desk. The report made six cogent recommendations which I would like to briefly summarize here:

1. That OE amend its policy to include a special focus on Indian education which will attempt to partake of the unique Federal responsibility outlined by the President in his special message on Indian affairs, July 1970.

2. That OE develop certain management procedures to increase the impact of its Indian educational efforts, and that Indian education become a priority within the operational planning system of the agency.

1. That USOE develop an Indian educational policy and report its statement to this subcommittee by February 1974. Although, title IV of Public Law 92–318 supports an Indian educational policy of local control, it does not specifically articulate it as such. I believe this is necessary in order for the agency to address the educational needs of Indian people. If they do not develop such a policy, I believe it would be appropriate for this subcommittee to take the initiative to prepare a piece of legislation mandating such a policy.

2. That USOE develop a 5-year plan for Indian education so that Indian people can take advantage of the planning and budgeting cycles of the agency and so that they will have a target by which to measure the agencies' progress.

3. That USOE become accountable both fiscally and programmatically to Indian people by periodically reporting on expenditures and program effectiveness both to the Congress and to Indian people, at the national and local level.

4. That USOE become accountable to Indian parent and community groups by developing procedures of reporting to local communities by local education agencies.

5. That money be earmarked under Indian educational authorizations for the training of local school boards and Indian school personnel to assure that the most concerned people involved with Indian education will become efficient monitors.

Action by Congress is necessary to make USOE accountable for Indian education.

I say this because to expect such recommendations to be carried out on the good faith of USOE is naive. The past record proves that only through carefully structured legislation will the agencies involved with educating American Indians and Alaska Natives address themselves to the needs of this smallest minority.

Thank you.

Senator KENNEDY. Thank you very much.

One of the conclusions that you come to very rapidly is that we have done all the studies that really need to be done, and we have an awful lot of legislation on the books which, if implemented by people who are committed to the appropriate ends, could really make a very significant difference in terms of the whole area of Indian education programs.

What we are obviously open to is suggestions in terms of legislative proposals, but it seems to me a great deal can be done with some hard, tough administrative procedures within the various prospective agencies. and you have pointed out the reasons for that.

Why did the report from the Indian Education Task Force, as you commented, die on the commissioner's desk? Look at the hours that went into that, the series of recommendations constructed and obviously well thought out. Why does a document like that die on a desk? What is the inherent problem? These are useful suggestions. Why doesn't an administrator interested in positive and constructive policies do the job more efficiently? Why is there a basic reluctance to move and accept these recommendations?

This subcommittee has before it a series of reports that have been done by various independent task forces, people that have given a good deal of time and thought to these problems. What is the generic problem in administering these educational programs that prevents change from taking place?

Ms. **Shelby**. I think with respect to Indian education that OE has a real problem in accepting the fact that Indian people are a unique minority with a special Federal responsibility. USOE does not want to treat Indians specially or single out, as they have told me, one minority group from another. But the fact is that other minorities—and not Indians—are represented within the OE staff and this aids these minorities. Still USOE insists that it does not want to single out a special program for Indians.

Senator **Kennedy**. Even though the Congress has legislated special programs for Indians?

Ms. **Shelby**. That is right.

Senator **Kennedy**. They refuse as a matter of administrative judgment, then, to implement these legislative mandates with any degree of specificity, or accountability.

Your employment by OE was prior to the enactment of title IV?

Ms. **Shelby**. That is correct.

Senator **Kennedy**. Have you followed the administration of Indian education programs within OE since that time?

Ms. **Shelby**. Yes, we have.

Senator **Kennedy**. And to what extent has title IV made any difference?

Ms. **Shelby**. When I worked at USOE, community controlled schools and community efforts in education could not be funded in the Office of Education, the way the Indian community wanted it. OE's programs were not designed to meet the needs of local parents. Title IV money in many ways is much more specific than other education legislation. It was aimed at meeting the specific needs of the Indian community. The Indian Education Act has caused a flurry of community efforts to spring up around the country and increased the interest of Indian community members in educational concerns.

In terms of what has actually taken place at OE administratively—not all that much. Staff is not there, the administration did not ask for money for the staff. So there is still almost the exact same problem within the agency as before, although the separate Bureau of Indian Education has been established.

Senator **Kennedy**. It was enacted over a year ago, was it not?

Ms. **Shelby**. In June of 1972.

Senator **Kennedy**. And they still haven't got a staff?

Ms. **Shelby**. Instead of two people on the Indian program, there are about five staff people and several secretaries.

Senator **Kennedy**. Is this part of the administrative problem, getting applications approved?

Ms. **Shelby**. It is still unwillingness to hire people from outside the Agency.

Senator **Kennedy**. What has been the story with regard to release of funds for qualified programs? Has it been difficult to get release of the funds under title IV?

Mr. **Kickingbird**. Very definitely. One of the things we had to do last February and March is file two different suits to seek the release of impounded Indian education funds. The problem is the funds availability. The appropriation expired at the end of the 1973 fiscal year.

Our case was settled in the first part of May, which barely left enough time to issue regulations, and accept proposals from various communities.

So there has been a great deal of difficulty. There was no request for funding by the administration for the current fiscal year. It was the initiative of the Indian community that brought about funding for the program in fiscal year 1974. As Ms. Shelby has said, with the various freezes and so forth, the general policy is not to bring in experienced Indians who have background in education, but just to transfer current OE staff, whose programs either are expiring or whose moneys have been cut, to the current Indian program, a process which I don't believe will be of any advantage because of our past experiences. OE is merely transferring the same people with whom we have encountered problems to new slots with specific responsibility in Indian education.

Senator **Kennedy**. Is it primarily because of a lack of staff that we have been slow in seeing results from title IV?

Mr. **Kickingbird**. Well, part of it is. Of course, there is reluctance on the part of the administration to support this act. Despite the fact that, that well known July 8, 1970, special message of the President called for Indian community control, although the message specifically referred to JOM, and although this act supports these same principles, there has been no real support for it.

Also, the Agency seems to be functioning with the inertia of its original actions. That is, the idea of not making any specific effort to deal with Indian education. It is easier not to. Indians don't have a large constituency with which OE has to deal.

Senator **Kennedy**. Ms. Shelby, are you familiar with the BIA education programs as well?

Ms. **Shelby**. I am not really very familiar. I do know some of the programs there and generally I know some of the problems. The same problems exist.

Senator **Kennedy**. That is what I was really interested in.

Do the same problems exist in BIA as in OE?

Ms. **Shelby**. Perhaps it is one step further back, because OE has had the guidance of some specific legislation, particularly title IV. It has also had other education legislation to outline educational policy in various program areas.

BIA's educational mandates come from the Synder Act which merely authorizes expenditures for "educational purposes."

It is my feeling that unless somebody spells out specific educational policy guidelines for the BIA, there will be no improvement, for BIA personnel are not creative or innovative enough to develop sound educational programs on their own.

Senator **Kennedy**. What degree of reliability would you place on the figures you have developed for OE?

Ms. **Shelby**. I would say they are generally reliable. They probably come within a couple million dollars either way.

However, an important fact is that the figures show that OE didn't know anywhere near how much it was spending, and despite the fact they are spending this much, they don't want to develop a policy to direct the money, to account for it, or against which the success of programs can be measured.

Senator **Kennedy.** Can you again sum up for me the reasons for the administrative foulups? What is basically the reason for lack of commitment by those on top, whether you are talking about OE or BIA, to these Indian education programs? Is it lack of legislative specifics, or basic kind of incompetence in terms of the staff operation? How would you assess the intent?

I know it is a tough question, but we need some tough answers if we are going to do anything about it.

Ms. **Shelby.** I think it is a little bit of everything. I was thinking about this yesterday, and I think before you can go anywhere you have to put the blame at the top, because somebody has to ultimately be responsible for Indian education. If it is public school in question that has got to be some specific individual with the Office of Education which is responsible and must be held accountable.

When local school systems have a problem they either look to the State or the central office of USOE to put the blame on. The State then shifts the blame to the local school system or to OE. Somebody has to be the person or the agency that is responsible for either implementing effective programs and accounting for them, or taking the blame and the consequences for a poorly administered program.

Senator **Kennedy.** Can you make an estimate, based upon your review and figures, as to what amount of money—what percentage of the money appropriated by Congress for Indian education programs—actually gets out to benefit Indian children, and what amount stays in the various agencies for administration? Can you give us any figures on that?

Ms. **Shelby.** I really don't know that percentage in terms of OE. We probably have a better idea of that percentage at BIA. I recently reviewed BIA educational statistics which revealed that the ratio of staff to instructional materials is 300 to 1—300 times as much education money is spent on personnel at various levels of the agency than is spent for instructional material for students.

There are about 17,000 BIA employees. Of these, 6,858 permanent employees and about 4,000 temporary employees are paid for by education funds.

It is also interesting to note that the incidence of highest staff vacancies is of teachers, but the administrative staff positions are almost all filled.

It seems to me that with 10,858 educational staff people, including 600 administrators, including the directors of education, the BIA should have been able for 48,000 children to develop a pretty exciting educational program.

Senator **Kennedy.** That is not unique in our system of Government. In the Army, for example, we now have more generals, admirals, and colonels—2 million men under arms—than we had at the end of World War II. We have the most overgeneraled, over supplied, overstaffed army in the world. It seems to me we have it to an even greater extent in terms of Indian education.

Mr. **Kickingbird.** Money spent on OE, we have discovered one of the practices at several of the Federal agencies is just to determine how many, or an estimate of what percentage of the Indian population is served in a particular region and then automatically define Indians being served as that percentage whether there is any actual showing of whether that money reaches them or not. That is one of the difficulties of determining how well the money reaches Indian people at OE.

Senator **Kennedy**. Mr. Kickingbird, one of the concerns of a number of minorities is being singled out in various Government programs. This has been an understandable concern in some instances.

What are you able to tell us about the general attitude of Indian people? Are they willing to be singled out in terms of programs, if it means a better kind of accountability and more effective and efficient programing to insure that programs developed especially for Indian concern actually benefit Indian people? How do you react? This is a general question and also a philosophical one, but what can you tell us about it?

Mr. **Kickingbird**. Of course, Indian people have this special Federal relationship to rely on, consequently they do feel themselves to be a unique and special minority.

As Ms. Shelby was indicating in her own experiences, we have difficulties taking advantage of educational opportunities whether through the Bureau of Indian Affairs and the special Federal relationship or whether just an ordinary citizen through the U.S. Office of Education.

I think Indian people want better education, and I think one of the ways we will have to achieve that is to find out exactly where the Indians are and where the money should go. I don't think Indians should be reluctant at all to be singled out and accounted so we can get some accountability.

Senator **Kennedy**. You are not getting that today?

Mr. **Kickingbird**. Right. It certainly wouldn't be to our disadvantage, I don't feel.

Senator **Kennedy**. Thank you very much for your statements.

We have Mr. Bork upstairs with the full Judiciary Committee, so we will have to recess for about 20 minutes and then we will continue with our hearing the rest of the morning.

[A short recess was taken.]

Senator **Kennedy**. We will reconvene.

The subcommittee will come to order.

Our next witness is Ramona Osborne, education administration specialist, BIA Division of Education.

We have invited you, Ramona, as really a specialist, though you are not here representing the Department of the Interior or the BIA. You have acquired a very considerable knowledge and experience.

We will include a letter from Assistant Secretary John Kyl releasing you to testify at this point in the record.

[The document referred to follows:]

U.S. Department of the Interior,
Office of the Secretary,
*Washington, D.C., December 11, 1973.*

Hon. Edward M. Kennedy,
*Chairman, Subcommittee on Administrative Practice and Procedure, U.S. Senate, Washington, D.C.*

Dear Senator Kennedy: This is in response to your letter of December 7, 1973, to Morris Thompson, Commissioner of Indian Affairs, concerning hearings by your Subcommittee on Administrative Practice and Procedure.

As requested in your letter, we are making Ramona Osborne available for your subcommittee hearing on December 13, 1973. Ms. Osborne will be appearing in a personal capacity and in no way represents the Department of the Interior or the Bureau of Indian Affairs. Her opinions are her own and do not necessarily represent those of the Department or the Bureau of Indian Affairs.

Sincerely yours,

JOHN KYL,
*Assistant Secretary for Congressional and Legislative Affairs.*

We are extremely grateful to the Department, and to Commissioner Thompson, for permitting you to testify and to you yourself for responding to the request of the committee.

Thank you for coming. We will be hearing from the Department officials sometime in the not to distant future. If you want to proceed we will look forward to your testimony.

## STATEMENT OF RAMONA OSBORNE, EDUCATION ADMINISTRATION SPECIALIST, BIA DIVISION OF EDUCATION

Mrs. OSBORNE. Mr. Chairman, first I would like to express my appreciation for the opportunity to appear before this committee, and I might also add for the record that I come in my capacity not only as an educator, but I also come as a member of the Pawnee Tribe of the State of Oklahoma.

Because of the nature of my testimony I would also add that I hold degrees in education from Oklahoma Baptist University and the State College, both located in Oklahoma.

During the past 2 years I have been involved extensively in research into educational administration. I have served in a teaching capacity in public schools and in bureau schools. I have been with the Bureau for a period of 5 years, serving as an education specialist in student activities.

Because of the nature of these hearings I would like to point out that the trustees of educational accountability is to be found in the effect which the process of education has upon its students. Such effect, whether it be good, bad or indifferent, is a most important factor of just how adequately the needs of the students are being met, and is ultimately a principal determinant of an individual's performance as a student and his accomplishments as an adult.

Unfortunately all about us there are clear evidences that the educational process has failed the American Indian people. The socioeconomic posture of the American Indian and the alarming high rate of dropouts which continues to exist among Indian students are examples which are undeniably indicative of past and present failures to meet the educational needs of Indian students, both by public education and the Bureau's educational program.

With particular reference to the Bureau's educational system, there are numerous factors which have contributed to this condition; however, it is my professional opinion that the one which stands most prominently is the continual failure on the part of the Bureau to adhere to the most fundamental principles of educational administration.

These principles dictate that a major and initial responsibility of educational administration is to establish a basic framework which sets forth program direction, specifies desired results, and establishes guidelines, techniques, and methods by which these results will be attained.

In an educational system having several organizational levels, such as is true of the Bureau of Indian Affairs which as the central office, the area educational offices and some 320 or 10 schools, it is incumbent upon the highest level or the central office to provide a broad overall framework from which each subsequent level will then develop their own framework appropriate to their specific circumstances and needs.

Such a framework as it applies to education would entail that the Bureau's educational program develop an educational philosophy, that it develop a set of educational goals, and that it at least begin the progress of establishing educational standards for personnel and programs.

Senator KENNEDY. You are a trained educator. What happens if you don't have a philosophy or establish standards or objectives? What is the result?

Mrs. OSBORNE. The present condition is a prime example of the kind of thing that will happen when you don't have these types of policies. There is a lack of direction. There is confusion. The conditions are such that the student is not able to learn in a most effective manner. The staff is unable to perform in a manner in which that is the capabilities. In my estimates this is the condition which presently exists in the Bureau's educational program.

Senator KENNEDY. How do you get any kind of evaluation of it if you don't have the standards or objectives or philosophy? How can you tell what programs are good or bad?

Mrs. OSBORNE. With the absence of an educational philosophy on a meaningful set of objectives it is totally impossible to arrive at a valid evaluation of the educational program because basically and logically you must know where it is that you are going, what it is that you are attempting to do before you can in fact measure how close you are coming.

Senator KENNEDY. Do those exist anywhere within the Department, that you have been able to detect?

Mrs. OSBORNE. There is a section, a Bureau of Indian Affairs manual which is devoted to educational objectives, but I would like to point out that these objectives were established 20 years ago, December—December 6, specifically—1953. So obviously these are totally outdated. They are not based upon the needs of the present enrollment, and in my estimation in addition, it is questionable whether many of these so-called educational objectives as stated in the manual fulfill the technical requirements of educational objectives.

Senator KENNEDY. Who ought to be involved in the development of those goals and standards? Should it be just professional educators? Should there be an Indian input, a tribal input, into it?

Mrs. OSBORNE. Certainly this is a question which is asked quite frequently, and certainly there are many viewpoints which are circulating at the present time.

As an educator I feel that the basic responsibility for development of such objectives rests with the educators, however, in performing this responsibility the educators also have the responsibility too, and a good educator or a good administrator will, involve the students. He will involve the parents; he will involve Indian people in general.

Senator KENNEDY. What is really wrong with these standards that were established 20 years ago? Is the problem that they are not being lived up to or that are they out-of-date? What comment would you make about them?

Mrs. OSBORNE. As I mentioned earlier, if the program is going to be effective, then those educational objectives must be based upon the identified needs of the students that are being served by the program. When you consider the changes which have taken place in society, among Indian people in general during the last 20 years it would seem very apparent that these are grossly outdated.

In addition to the development of an educational philosophy and educational objectives, I think that it is also extremely important that the Bureau begin the process of establishing personnel standards, so that we can once and for all come to the point where we are getting qualified people in these positions, particularly in the leadership positions. At the present time I have been unable to find anything in the Bureau manual, and to my knowledge there are no standards which exist with regard to the qualifications that personnel must meet in order to be hired for the various positions.

In addition to the lack of personnel standards there is also a lack of program standards in the Bureau's educational program. I think that, while it would be a relatively easy job, although a very time-consuming job to come up with a set of very meaningful objectives, it is extremely important that the people we get to implement and to seek to attain these educational objectives really are the principal determinant of how adequately we meet the needs of Indian students enrolled in Bureau of Indian Affairs schools.

I have no further testimony, if you would like to ask any additional questions at this time.

Senator KENNEDY. You have worked in the student rights and responsibilities area, have you not?

Mrs. OSBORNE. Yes.

Senator KENNEDY. Would you tell us a little bit about your assessment of student educational needs? Should there be a code of student rights and responsibilities adopted by the BIA?

Mrs. OSBORNE. Yes, sir; I think very definitely it is incumbent upon the Bureau of Indian Affairs to develop a Bureau-wide code of student responsibilities with the areas and the schools having the opportunity to develop its own particular rules and regulations as they would accommodate the conditions and circumstances of their individual schools and areas.

The project which I think that you have reference to was a project which I developed and was implemented approximately 2 years ago. It dealt not only in the area of student rights, but it also dealt in the area of educational administration. The overall objectives of the project were to come up with a code of student rights and responsibilities, to establish an educational philosophy, to update or redefine educational objectives and to begin the process of establishing educational standards.

The full report of that particular project is in the process of being finalized, and the lateness of it is due to the fact that a good portion of the material was either lost or damaged during the Bureau takeover and we have had to go back to raw data to recompile some of this information. But that will be available within a matter of weeks.

Senator KENNEDY. What do you think would be the impact on Indian education if this were adopted?

If we were able to develop the recommendations in that report, do you think it would have much of an impact in terms of education?

Mrs. OSBORNE. Well, I think that I would have to be a little bit biased in responding to that, but certainly I think it would have a tremendous amount of impact, because insofar as student rights and responsibilities are concerned, once and for all it would clarify what the constitutional rights are of students that are enrolled in Bureau schools. In addition, it would identify the corresponding responsibilities that the students have in exercising these rights.

Senator KENNEDY. Would this give more, or less, authority to the BIA Director of Education?

Mrs. OSBORNE. The code of rights and responsibilities, or the philosophy, in and of itself would not in any way in my estimation affect the authority that the Director of Education at the Washington office itself would have. However, what it would do, certainly, is clarify and give direction to the Bureau's total educational program. I think that it would assist him in asserting the type of leadership which is vitally necessary at this particular juncture in time.

Senator KENNEDY. Are you convinced that the Bureau, within the existing budget limitations, can find existing qualified educators sensitive to the needs?

Mrs. OSBORNE. Within the existing budget?

Senator KENNEDY. Yes; qualified educators to meet the needs of Indian children—for the staff, for the schools within the BIA system.

Mrs. OSBORNE. Inasmuch as I am not involved and am not familiar with the budgetary complaint of the Bureau's educational program, I would hesitate to venture a yes or no answer on that.

However, I would state that certainly it is my opinion that wiser use could be made of the dollar in our educational program. Wiser use in terms of devising programs which can be much more effective in meeting the needs of Indian children.

Senator KENNEDY. We will look forward to your report. I hope we will be able to get a copy of it after it is prepared. I think it would be very valuable and very helpful to the Bureau as well as to us in evaluating the development of the program.

We want to thank you very much for coming here this morning.

Mrs. OSBORNE. Thank you.

Senator KENNEDY. Our next witness, Myron Jones, is the Director of Indian Education Training.

Mr. Jones, we welcome you. We know you are a professional educator who has been involved in teacher training and advisory school board training in Mexico and have had a wide variety of educational experience. So you know how the funding agencies function, how the various school systems using the funds function and the probable effects of various approaches to Indian education on the children, as well as on the parents. We look forward to hearing from you this morning.

## STATEMENT OF MYRON JONES, DIRECTOR, INDIAN EDUCATION TRAINING, INC.

Mr. JONES. Thank you, Senator.

I would like to say at the beginning that I want to concentrate my testimony on the Bureau of Indian Affairs and Office of Education in relation to Indian funds for public schools.

As an organization we have developed numerous documentation on funding patterns in schools, which I have given to the committee, and can give additional followup material if it is requested.

One of the things we have tried to do as an organization other than training school board members is to see what impact, if any, Indian funds have on the quality of education in public schools.

I think that one of the things that becomes quickly apparent is that the Bureau is stuck with its own history. When the Johnson-O'Malley law was first passed it was meant primarily, according to statements of congressional intent, it was meant to serve those tribes not being served by the Bureau or by public schools. That was the Bureau and the Federal intent.

From the point of view of States and public schools, the Johnson-O'Malley fund was seen simply as payment in lieu of taxes. I regret through correspondence from the thirties and forties, people in the Bureau keep hoping without any administrative enforcement proceeding that some special funds are being taken care of. But in fact what documentation indicates is that the money was used simply in not categorical payment in lieu of taxes from the school's point of view.

In 1958 when P.L. 874 was extended to apply also to Indian land the whole question of Federal impact in lieu of taxes for Indian students became old-fashioned and meaningless, and yet in those States that wanted to do so and have wanted to do so Johnson-O'Malley is still used, as if it is required for payment in lieu of taxes. If you talk, just on a State level, if you track the different ways in which the funds are used it is difficult to believe you are looking at the same act. We use Arizona and New Mexico as an example. They require that all Johnson-O'Malley funds be used for supplementary programs.

It was ruled that Johnson-O'Malley funds should be supplementary, that is above minimum standards required by the State, above what the school would have to do in any case, and also meeting comparability standards. The old practice was that if there was an Indian high school and non-Indian high school in a district the football team of the non-Indian high school would have expenses paid out of the budget and the Indian one would have it paid out of the Johnson-O'Malley funds. The judge ruled there that the Indian students must also use theirs the same as for non-Indian students.

In Arizona, an adjoining State, according to their own report, of $3.8 million they received last year only $10,000 was used for special programs. The rest of it was used for basic operational expenses. Although, a survey we did on the Bureau's own figures on public schools indicates that the Arizona schools had more money per pupil, schools of comparable size, had more money per pupil before the Johnson-

O'Malley schools than the New Mexico after the Johnson-O'Malley schools, and yet they were allowed to pretend they needed all the Johnson-O'Malley money simply to keep afloat.

Another problem is that the Bureau does not and has not kept track of any other money at all. Their eye is on the sparrow, but on nothing else. So they have no way of—for example, there is a school district, and this is a real example, that is 77 percent Indian, and yet none of the library books they have have anything to do with Indian affairs and they are regular library allocations. Any library books having to do with Indians are purchased out of Johnson-O'Malley and the Bureau applauds this because they are concentrating on this one piece of funding.

In some cases districts have used those funds for precisely the same purpose with no check system for anyone to notice. In the Gallup-McKinley districts when lunch costs went up they went to Johnson-O'Malley and asked them to increase the funding. They agreed to do that and at the same time applied to the Indian Educational Act. Indian education came through with the money. At the same time they applied to the State of New Mexico for an additional $100,000 to meet their emergency school needs. No one was in a position to know what was going on with the funds in any way.

One of our jobs as an organization has been to try to do that, to try to look at all sources of funding, and particularly the major chunk, basic budget, and then look how these supplementary funds fit into that, do they compliment that, used for ideas, to try out something and if it works does it become incorporated into the basic school program.

My own view of compensatory funds is that they were intended to be used to help school districts try out this. What has been done is create a smaller scare within the big scare. They use Johnson-O'Malley funds to expand this, the Indian education funds to expand the Johnson-O'Malley funds, and the title IV funds to expand the three unsuccessful programs.

I think they are under some obligation to provide some answers to this. One of the things that could be done overnight is for the Bureau to delegate staff people to deal with public schools. The Navajo office, the Window Rock office, deals with $7½ million in Johnson-O'Malley funds for Navajo students. Part of that is administered directly out of their office and part out of the Phoenix office. Not one person has ever been assigned to Johnson-O'Malley fulltime, that is on paper it looks as if there is no administrative overhead, no evaluation, no monitoring whatsoever to track $7½ million. The result, of course, is that the schools do precisely what they want to do because they know that the Bureau cannot handle that. If the Bureau would tomorrow assign a minimum of five fulltime people with training, they could begin to monitor and look into public schools.

I think ultimately the answer, though, to instead of funding public schools—in the Johnson-O'Malley Act itself public schools are never mentioned. It talks about providing educational opportunities for Indian students. It doesn't specify public schools. If the ambiguity, the brevity of the act could be exploited through regulation, they could then either run their own programs or run programs through the public schools as I would hope for a competitive situation where the public schools have to develop with their special Indian programs in order to get the funds.

As it stands right now public schools comport Indian people to become very involved in Indian education committees, and yet after a year or two some of the best people drop off the committees because when they find that when push comes to shove they have no legal authority to act on their programs, and when it comes down to their real budget decisions the school does what it wants to and they are paper boards.

I think the Indian Education Act has already provided a model for strengthening those committees. Instead of the Committee Education Act, a committee sign-off is required for a program to be brought into the district. I would like to see that go one step further and give the committee an outlet for the funds if they and the schools don't agree.

Let me just use counselors as an example. For years Indian people testifying before committees have asked for counseling services in the school. I think what they are clearly asking for is a bridge between the Indian community and the school. They hope perhaps for an Indian version of that wonderful lady in room 222, a friend to all the kids, can work out problems. Frequently, though, the real model of counselor is a public relations extension of the school administration. Not only does the counselor not make things better, but frequently far worse by acting as a buffer between parents and the teachers. So that whereas before parents wanted a counselor because they had to wait 3 months to get to see the teacher. Now they have a counselor and don't get to see the teacher at all. In some instances people really want a counselor, not in terms of the school's requirements for accreditation, but a counselor answerable to the Indian community and to Indian students and see how that will work and continue to do that until schools can deliver with programs.

As it stands right now schools are under no obligation to deliver. They will get their money no matter how badly they do. They get increased funding for programs that are failures. They have very little incentive for reforms and yet they continue to judge only themselves.

I close by saying I feel very strongly as an educator that education is far too important to be left to educators and that a community pressure group is needed.

Thank you.

Senator **Kennedy**. Is it really necessary that we have additional legislation in that area, Mr. Jones? Couldn't we do it by administrative authority at the present time?

Mr. **Jones**. I believe it could be done by administrative authority. I think there is a legislative need to allow tribes to contract directly, which they cannot do now. I think that the Johnson-O'Malley Act itself is flexible enough and loose enough so that regulations could achieve at least the things I have been talking about.

Senator **Kennedy**. By administrative action?

Mr. **Jones**. Yes, through regulations.

Senator **Kennedy**. How can you establish by law an Indian education program accountable fiscally to the Indian people and to the Congress without removing planning and policymaking from local people?

**Mr. Jones.** How can you do it without removing that?

**Senator Kennedy.** Yes.

**Mr. Jones.** I think instead of building this power through some direct way of administration action here in Washington, that the Washington action should be to secure local control. The program outlet for parents is an example of what I mean by that. If schools had to deliver or they would not get the money, from the Indian community that would be real local power.

**Senator Kennedy.** You mean they couldn't get the money unless they submitted programs which showed a sensitivity to these Indian needs?

**Mr. Jones.** That is right, to make it literally Indian money or the schools could not get it.

**Senator Kennedy.** And this would require the local communities bringing the Indian groups in to develop such a program?

**Mr. Jones.** Yes. I think it would also solve some of the problems that are created by accreditation, whether real or imagined. School districts can always say we will run these programs and hire 20 people, if they can find a qualified Indian we will hire one. They never can because of their own accreditation procedures.

**Senator Kennedy.** Earlier we mentioned to Lynn Shelby and Kirke Kickingbird these reports that have been done and just lie fallow on the desks of administrators in administrative agencies. What steps are required to cause administrative agencies to take corrective action, and how do you account for the fact they have failed to do so?

**Mr. Jones.** I am speaking as a critical outsider in relation to the Bureau. About a year ago I formed the impression that the Bureau of Education staff in Washington functions very much like the top echelon in the Congolese Army. They request people to do things but they have no enforcement power whatsoever, that the real decisions are made on the area level by the director for which education is a very low priority, and the function of the Bureau of Education has been as a fall guy. If people are dissatisfied the area director says yes, that is a terrible problem, we must take that up with the area man in Washington who has no structural power within the Bureau. So you deal with people who are there on an area level, people who have their staff jobs because of a commitment to education. I think frequently they really have their commitment, but they are answerable to area directors whose only commitment is frequently one of surviving in their jobs and who are not at all interested in education. Yet it is very difficult to know on a local level who is in charge.

I think finally the answer is that no one is in charge and that has been very convenient for the Bureau. They operate a Department called the Department of Public School Relations which has a staff of three people. This Department theoretically oversees the whole question of $27 million in the Johnson-O'Malley funds in the country. It would be impossible to do even if the three people in that job had been trained for it, which they have not been. But the structure pretends they are doing a job they can't possibly do.

**Senator Kennedy.** You suggested in your testimony reorganization of the BIA to grant line authority to the Director of Education. How would this effect the area offices?

Mr. Jones. Within the area offices the education people on an area level would be directly answerable to the Director of Education, and it certainly would still be possible to pass the buck in some way, but there would be some process for ending it, at least the area director for education would be accountable.

Senator Kennedy. Would they welcome it or would they object to it?

Mr. Jones. I think the area education people have mixed feelings about it. As far as I know, the area directors are unanimously opposed to it and have politicked most actively.

Senator Kennedy. Why?

Mr. Jones. Because they have a large number of people paid to administer educational lines which have to do with other things, such as land management, water, tribal relations, and if the area offices lose those lines or had to give them over to educational people they would lose a flexibility because the education budget takes up a majority of all area budgets and that is the loss, flexible play-around money.

Senator Kennedy. They are using educational money for staffing personnel for these other purposes?

Mr. Jones. Right.

Senator Kennedy. How significant is that? How widespread?

Mr. Jones. The former Director of Education for the Bureau, Jim Hawkins once claimed he couldn't tell because all those funds were handled on a computer printout which he did not have access to.

Senator Kennedy. Who does have access to it?

Mr. Jones. Perhaps another computer somewhere. No one seems to know. The computer belongs to the administration people and since they are the ones who are siphoning off the money they won't let the education people know how much of their money is being siphoned off. I know it sounds like Kafka, but I believe it.

Senator Kennedy. You haven't been the first to make such a claim, but I think there is probably no one who could make it with greater authority than somebody who has spent so many years in this area.

Doesn't the BIA audit state use of JOM funds?

Mr. Jones. No sir, they don't. Interior has audited after the fact and in Arizona and New Mexico and Alaska they simply found the money was not spent, not returned, not carried over. It seems to be missing.

Senator Kennedy. What happens when they find out money is missing and not accounted for and not spent?

Mr. Jones. They say will you please get busy and find the money and the Bureau says yes, they are looking.

Senator Kennedy. Then what?

Mr. Jones. Nothing. They go on looking.

Senator Kennedy. But there are no reprimands involved?

Mr. Jones. None. The saddest part, given the way the money is programed or not programed, I am not sure it makes any difference, that is the Bureau will hand over a $100,000 in a school district, say Arizona, it appears as a lump sum. It never appears again. At the end of the year the only thing the Bureau asks is a report on the school fund, not how it was spent.

Senator **Kennedy**. What are these people who are getting paid from the BIA's educational funds doing? It seems like the Bureau must be staffed very well, yet it doesn't have sufficient staff to check out or audit or verify how these monies are being spent and whether they are being spent for proper purposes.

Mr. **Jones**. Let me use Window Rock as an example because I am most familiar with that office. The area education office handles all of the Bureau's schools on the Navajo Reservation and the Johnson-O'Malley public schools for New Mexico and for border town students. However, no one within that staff—the same people are supposed to handle everything, and so the people who are theoretically looking after Johnson-O'Malley in fact spend 90 percent of their time looking after questions having to do with the Bureau schools and stay away from public schools.

The fact is when Bureau people—I have been in a number of meetings with Bureau people and State education people, and I am afraid it is really the amateurs against the pro's. The State people work at budgets day in and day out, and in a negotiation between the State and Bureau people you sometimes have highly competent people who know their jobs very well, discussing tax levies with Bureau people who don't know what a tax levy is. Two years ago the Assistant Director of Education for the Navajo area did not know what Public Law 834 was, thought it was very interesting, promised to make a note of it. When they deal with the whole gamut of public schools and the question of funds they simply cannot keep up.

Senator **Kennedy**. Hasn't the BIA been involved in developing regulations and guidelines for the Johnson-O'Malley Act?

Mr. **Jones**. Yes, they have. At last count I believe there were 27 separate drafts for regulations. Depending on which group you talk to within the Bureau, they were ready to go at any minute now. I found there were at least four separate factions within the Bureau staff working on four sets of regulations.

Senator **Kennedy**. Who suffers because of this?

Mr. **Jones**. Indian people at the district level. It has been said that once an organization has 100 people that it has no need to concern itself with the outside world. I don't mean to apply that to the Senate.

Senator **Kennedy**. It probably applies here.

Mr. **Jones**. But certainly the Bureau has enough people so internal questions alone can take up enough energy so there is no need to ever reach outside the good gray offices of the Bureau.

But another problem is when people did push the regulations no one could get them approved by the Department of the Interior. I think at that point, particularly the States who were least accountable for Johnson-O'Malley funding who are the States who get the greatest amount in the BIA, do pay very, very well. Those are the ones most resistant to change. When they went to Interior—they don't fool around with the Bureau, they go directly to Interior and Interior has served their interests very well, has successfully blocked any changes.

Senator **Kennedy**. The BIA budget justification sent to Congress reports a rapid increase in JOM advisory groups. Have you found these in existence?

Mr. JONES. Yes, but so loosely defined. They are defined very vaguely with apparently participation to the extent possible, to the extent feasible, which means nothing. In many districts the schools name their own. They had advisory committees and the advisory committees don't know that they are advisory committees. They have no policy-making authority. The school can submit any program it wants to submit and the committee has no authority, through regulations or through legislation, to do anything about it. The program is totally in control of the schools.

Senator KENNEDY. Do you know how their members have been selected, or whether there have been guidelines on how they are to be selected? How well do these committees understand their responsibility and authority?

Mr. JONES. I once did a paper on committees and I think I counted up 21 different types. In some areas they are named directly from the travel council. In some places they appoint themselves because they are the only ones who want to do it. In some places there is an informal caucus of parents and they select the committees. In some places the school selects its own employees and they become committees. There are no rules. It depends on how active the local community is, how aggressive they are and how devious the school people are and how cooperative they are.

I found in some of the more sophisticated districts, in New Mexico, for instance, the school superintendents have begun to pay some real attention to the committees, because they have discovered that Johnson-O'Malley funds and other compensatory funds are a very important distraction and they want the parents looking at that—concentrating on that little dessert that comes afterward, anything so long as they don't look at what's going on in the basic school program. They have discovered it is best to go along with the committees.

Since the Bureau has no reporting procedures, other sophisticated communities have learned not to argue with committees because they can't be discovered anyway. You used to get into the sort of thing where the committees would say how come our teacher aids are only paid $2,200 a year. They say that is a very good discovery. We will pay them that from now on. Now they approve it because that is paper approval. They pay the guy whatever they were paying him last year anyhow. There is no auditing procedure. They won't be found out.

Senator KENNEDY. Is it asking too much to monitor the entire BIA school system, including JOM and title I supported schools, to employ the techniques of verification and critique reported in your paper?

Mr. JONES. For the Bureau to do it?

Senator KENNEDY. Yes.

Mr. JONES. I don't think they are capable of it. I don't think they can contend with local school district people.

I think the best——

Senator KENNEDY. Is that an administrative limitation, or one of competency?

Mr. JONES. Both. I think it is unwieldy. I think it can only be done on a local level and only by local people if they are given the authority through the Bureau to do that. I think the most important thing the Bureau could do would be to simply account for the money.

Let me give one example. This year we had a school district that has had a cash surplus of over $5,000 and has consistently received $200,000 and up in Johnson-O'Malley funds. This year we had a cash surplus of $2.1 million. They had a planned unbudgeted surplus for the next school year of $800,000 over and above the cash emergency account, just $800,000 that they were not going to use for anything at all. They applied for or got for the fifth year $400,000 from the Johnson-O'Malley funds to meet special needs. We tugged the Bureau's coat and said isn't there something a little odd about that. They said no, they must have their reasons. We forced a meeting with the State and Bureau. They got the State of New Mexico to challenge the district and the Bureau defended them without knowing what their defense was. Before the district could offer their explanation the Bureau said we agree with their explanation, whatever it is. We were saying to the Bureau it is your position the district can have any surplus they want, they can still get Johnson-O'Malley funds, that is not a factor. They said cash surplus is not our problem.

Senator **Kennedy**. Where is this, in New Mexico?

Mr. **Jones**. Yes, central school district.

Senator **Kennedy**. Where in New Mexico?

Mr. **Jones**. In the Four Corners area: Kirtland and Shiprock. We said it seems it is an add way to use the money. Why don't you use your own money. You have got more than $1 million in cash. They said we can't use cash surplus for nonrecurring programs. At that point the State school budget director said you want $50,000 in Johnson-O'Malley, I will give you $150,000. The school district refused to take their own money and the Bureau let them do it. That is what I mean by a total absence of monitoring. They don't know how to deal with that question.

Senator **Kennedy**. As a result of this day of hearings, we are going to develop some very specific recommendations on this. We would like to get your input, so if we could call on you to give us some guidance, it would be very helpful.

Mr. **Jones**. I will be very pleased to.

Senator **Kennedy**. Your testimony has been very discouraging, but, I think, very useful and helpful. I think, as you will probably find out, the only thing you can do is just keep hammering away at these issues and questions to achieve constructive progress.

We want to thank you very much.

Mr. **Jones**. Thank you.

Senator **Kennedy**. Gerald Clifford, representing the Coalition of Indian Controlled School Boards.

## STATEMENT OF GERALD CLIFFORD, CONSULTANT, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

Mr. **Clifford**. Mr. Chairman, I am Gerald Clifford. I am an Oglala Sioux from the Wounded Knee District of the Pine Ridge Indian Reservation. Although I am presently a graduate student at the University of Colorado, I continue to serve in a consultative capacity to the Coalition of Indian Controlled School Boards. From July of 1972 until September of this year, I served as the executive director of the

Coalition—a position which has allowed me considerable experience in supporting educational efforts of Indian communities throughout the Nation as they sought to make education more meaningful to their children. In addition to this experience, I have served the Oglala Sioux Tribe in the capacity of chairman of the Wounded Knee District Council; I have served as a member of the Manderson Advisory School Board, and for 2 years was the director of the Oglala Sioux Tribal Office of Economic Development. I believe Mr. Chairman, that these experiences have provided me with an appreciation for the structural problems inherent in Indian education.

Although I am here today offering my personal testimony, I would like to acknowledge that much of my comment will reflect the experience and thinking of the Coalition of Indian Controlled School Boards.

In your invitation to me to come here today, you indicated that the Coalition's most recent congressional testimony highlighted the problems of accountability. I think it would be appropriate here to repeat a portion of that testimony which was presented by the president of the Coalition. Mr. Birgil Kills Straight before the Senate Subcommittee on Education, Committee on Labor and Public Welfare, on October 31, 1973. Mr. Kills Straight stated: "Government agencies in the implementation of legislation, must be held accountable for carrying out the purposes of Congress." And again * * * "It is the duty of Congress to insure that the structures for implementation provide for accountability to Indian people." These concerns are not matters of rhetoric, rather they are statements to Congress out of frustration with a condition of irresponsible expenditures of moneys appropriated specifically for Indian education.

Another way of viewing the distortion that has come about is to look for the principle which controls the administrative decisionmaking process of allocating resources appropriated by Congress for Indian education. The principle which should direct the allocation of education dollars must be an educational principle. On the contrary the ruling principle in the allocation of BIA dollars is either (a) the survival of the bureaucratic system, or (b) the survival of the individual bureaucrat who is immersed in tribal politics. In the first instance a specific example is that of allocating resources for contract schools. The Bureau has spent something on the order of $180 million for education in the last fiscal year while only allocating $4.5 million to contract schools. This is so, in spite of congressional——

Senator KENNEDY. Let me have that again now. You are covering a lot of ground fast.

Mr. CLIFFORD. There is something well over $180 million for education in the Bureau's budget last year. Only $4.5 million of that was allocated for contract schools, those Indian community controlled schools who are actually running their own schools.

Senator KENNEDY. It seems to me I remember a national policy in 1970 with respect to Indian affairs and educational programs and self-determination. Is that as far as we have been able to get toward getting Indian controlled school boards, $4.5 out of $180 million?

Mr. CLIFFORD. Exactly. We have gone many, many times to the Bureau, and their response is put in a framework such as: "We cannot put more resources into the contracting because this will require reduction in the number of BIA employees."

Senator KENNEDY. Which means what to you?

Mr. CLIFFORD. It means the career interests of BIA employees is held as that principle which brings about the decision. It is not an educational principle. You supplant the intent of Congress which appropriates money for education with the notion of the Bureau to protect the interests of the BIA employees.

Senator KENNEDY. They don't mind when it happens to be a worker who works in a defense plant, like up in Massachusetts. They announced closing the Boston Navy Yard. Some people have worked there 25 years; some have worked a lifetime. But this attitude that you refer to is also found in the military. We have been after them to cut back, and they say these people have devoted 15 years of their life to it. Nobody is asking them to bear an unreasonable burden.

But we are making some hard decisions as we have to, in education, national defense, and other areas. It seems to me really outrageous to take a bureaucratic position rather than a strong, fair, and just position.

Mr. CLIFFORD. Well, the problem in both of these instances, both the military and the Bureau, is that they are in command of the decision-making. They are not going to cut off their arm. That is what happens. For example, if we talk about the Manderson School that I served as Advisory School Board member, we would talk about cutting of maybe 30 or 40 Bureau positions. The Bureau's response is: "What can we do with them?" Our response is: "That is your concern; our concern is the needs of our kids." That is the problem with contracting and why it is so difficult to pass from BIA administered schools to community controlled schools.

Senator KENNEDY. What can you tell us about the degree of cooperation or help that you have had from the Agency itself? Have they helped you or hindered you?

Mr. CLIFFORD. They have helped us in a way by hindering us, because it forced us to pool our resources and begin to work together. Our biggest problem I think has been the fact of just the resistance at the area and Agency office levels.

Myron pointed out the problem of line authority. In some instances we have had, in the negotiating stage, we have had approval from Mr. Hawkins, the Director of BIA Education, or at least he indicated he had gone along with the local community that wanted the contract. But we have had a reversal of that from the area directors. We have had an occasion where we have had the Commissioner of Indian Affairs send a telegram ordering the area director to immediately sign a contract with the community. The area director ignored the telegram. If this is how the bureaucracy works then there obviously has to be some kind of change.

Senator KENNEDY. Will you give us some examples? Are they included in your testimony?

Mr. CLIFFORD. They are not included. The last one is a lawsuit in the District Court. We will be happy to provide details on that. This is from the reservation in the Aberdeen area office.

The second——

Senator KENNEDY. Isn't the program you are suggesting going to be a good deal more costly? Aren't we talking about adding a god deal of administrative costs?

Mr. CLIFFORD. I don't think it will be more costly because you can eliminate a lot of that—well, the bureaucracy from the point where you appropriate the money to the point where you administer the school. It doesn't take bureaucrats in Aberdeen or Albuquerque or anywhere else. They don't make any iota of difference. As a matter of fact, in the first years—2 years under Commissioner Bruce, Ramah contracted directly with the central office in Washington. Because of the Bureau's reorganization in the last year with Marvin Kranklin, in the position he is in, there was a turnover of authority back to the area offices and immediately the contract schools began to have problems again. Wyoming Indian High School of the Wind River Reservation in Wyoming had to wait 2 months for their school funds. What happened was the area director put them on a monthly voucher system and would delay up to 3 or 4 months before they paid them the amount of money to run their school. They had to borrow money from the bank and go from one bank to the other to run their school. The Bureau of Indian Affairs creates such problems just in passing the dollar down to the contract school at Wind River.

Senator KENNEDY. Is this part of the reason why Indian people are so frustrated when they see resources, funding quite clearly designated for educating their children, not reaching those children because of the incompetency and the corruption of the system? Is this the type of frustration that seethes to the top and results in some outburst of violence?

Mr. CLIFFORD. Well, certainly it is the type of frustration—it can have different kinds of reactions. Some people will become very violent.

I think the coalition is very constructive, because what has happened is the people have arrived at the point in time and I think Congress will have to arrive at that point where we realize the only way to make a significant change is to run the schools ourselves.

Coming back to the Congress, it appears to me all the legislation to date appropriates money for either the BIA or Public School Districts to administer the schools for Indians. What we are saying is that neither of these ways responds to the Indian needs.

Senator KENNEDY. What is the track record in that area?

Mr. CLIFFORD. I think there is no comparison in terms of the schools that we have, at least of those schools under the $4.5 million, and we simply haven't been able to expand this as fast as the communities want to. If we look at both Ramah or Wind River, these schools were easier to start because they were started from scratch. There wasn't that intensity of resistance. Where you have a Bureau school it is very, very difficult to make that changeover to community control. I think the only one that we have to date and that I am familiar with is the Busby school in Montana.

Senator KENNEDY. In school districts where the percentage of Indian children is a minority of say 25 percent, how would you handle that?

Mr. CLIFFORD. Much on the line that Myron suggested, that is that even though there is a small percentage of Indian children there, there is a whole lot of supplemental moneys available to the school districts. The problem of accountability becomes the problem of how you get the local school committee, the parents or whatever group that has its responsibility at the local level, how you convince them that they do have the opportunity to make decisions and how you back them up.

We had an example—right now in North Carolina with the title IV funding. I think in Robinson County the school district was involved with setting up a parental advisory board. Some of the people felt that the moneys weren't being spent right and they asked the coalition for support. We went down there and it turned out we had to have one of our lawyers appeal to Sam Ervin to start the political process before we could get access to their books. We sent an accountant down there and our preliminary analysis indicates they are spending moneys outside of title IV guidelines.

There should be a local committee there that has access to these types of resources. It doesn't take very long for a professional that knows what he is looking for to go in and see what is wrong with the program. The point is there hasn't been a mechanism and these committees haven't had the option.

Senator **Kennedy**. The concept of local control in education is about as old as the early announcements about the public education system made in my own State of Massachusetts. Most Americans think that is a basic part of the educational structure, and this is what the Indian people are trying to get for their own people. It is a concept that gets lip service from congressional and administration spokesmen. But as you point out, as a keen observer at the receiving end, it is just not being achieved. I think this is the particular dilemma on which we are interested in working with you and the other groups here this morning.

Mr. **Clifford**. In pursuing this thought, I am sure that the committee realizes the magnitude of the task it is taking on if it really wants to deal with the problem of accountability, because I think you will have to pass beyond this notion that the only way to have educational services delivered to Indian people is through these two structures, either the BIA or public school structures. You will have to deal with establishing legislation that allows some type of voucher or entitlement that will take moneys directly to the Indian communities.

Now, in my experience of dealing with local communities I think the only thing that is lacking with most administrative agencies is the fact that they simply don't realize what potential of human resources there are. The school boards constantly amaze me. As far as the coalition meetings are concerned, as staff people we have always sat back and let these people go ahead and define their needs. They know what they want.

Senator **Kennedy**. What is the reaction of the tribal chairmen to this type of thing?

Mr. **Clifford**. Well, there is something that they think, that again, we have to deal with. Only last week in a position paper down in Phoenix, and I think the tribal chairman adopted the position paper, they made statements calling for themselves as the only voice for the Indian community. Well, this is fine, but the assumption that once they are elected that no one else can speak—it is as ridiculous as saying that once we have elected the President of the United States there is no need for the Congress or anyone else. The point being that tribal sovereignty is a notion that we hold and esteem with highest priority. Yet we have to make a distinction between a "tribal sovereign" and tribal sovereignty.

Tribal government has a long way to go and I would urge the Congress to supply the resources to tribal governments to really bring about governments with checks and balances that eliminate the same type of abuse that we have been talking about.

In particular, Myron mentioned the political immersion of area directors and this means they have to preserve their job as area director. The problem becomes one of: "Are we going to let political decisions affect education or are we going to have some type of law that allows for fairness, equality, efficiency, and quality in education?"

As far as tribes are concerned, certainly I would like to see—and this is my own personal preference. I would like to see tribal charter mechanisms that have a similar function to State mechanisms for education, that is, education codes or whatever.

So there is a conflict. We have had as a coalition of Indian school boards, a situation where even though elected by Indian people who send school board members to coalition meetings, they (the school board members) aren't acknowledged as being official spokesmen for tribal people—and I think this is wrong. I am not in any way opposed to tribal government. All I am suggesting is that the same notions of equality and fairness do apply.

Senator **Kennedy**. That really has to be started here at the top, I suppose.

Mr. **Clifford**. I would suggest that it should be started here, because we have had this problem that I alluded to in terms of the lawsuit. It is one that revolved around the area director and the tribal chairman of the Pine Ridge Reservation. I think it really deserves attention.

Senator **Kennedy**. OK.

Mr. **Clifford**. As far as the other concerns of the coalition, in the general membership meeting last week there were I think a number of resolutions that came forward which addressed themselves specifically to this problem of accountability, and with the permission of the coalition and of the committee I would like to present these to the committee and give some background of the problems that brought them about.

Senator **Kennedy**. That is good.

That will be very helpful. We are going to draw on the knowledge and the resources of the witnesses who appeared this morning and other interested groups to develop the questions and comments that will be submitted to OE and BIA with regard to the adequacies of fiscal and educational accountability. This morning we have heard a story which has been repeated often—that we are unable to get the information on how the money is being spent. The information we have shows that such an extraordinary amount of it is being spent on personnel rather than for the true benefit of Indian children.

I am writing the Commissioner of Education requesting that he furnish the committee with information regarding OE's goals and policies with respect to Indians. We hope to take whatever action is necessary to see that the funds appropriated for the benefit of Indian children reach those children. We will ask your help as we move along this extremely challenging road.

Mr. **Clifford**. One other thing. We did manage to send our accountant to the Albuquerque office and the Aberdeen office. We haven't been able to put together a report. In the event you have other hearings, either the accountant, Francis Killer or the report could be available for a hearing. But I think it is really an eye opener.

Senator KENNEDY. The subcommittee stands in recess subject to the call of the Chair.

[Whereupon, at 12:30 p.m., the subcommittee was recessed subject to the call of the Chair.]

# INDIAN EDUCATION ACCOUNTABILITY

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THURSDAY, AUGUST 22, 1974

U.S. SENATE,
SUBCOMMITTEE ON ADMINISTRATIVE
PRACTICE AND PROCEDURE OF THE
COMMITTEE ON THE JUDICIARY,
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:20 a.m., in room 2228, Dirksen Office Building, Senator Edward M. Kennedy (chairman of the subcommittee) presiding.

Present: Senator Kennedy.

Also present: Thomas Susman, counsel; Wynne W. Moskop, staff member, and Theresa Burt, staff member.

Last December 13, this subcommittee took a close look at the practices and procedures of the Bureau of Indian Affairs and the U.S. Office of Education in relation to their implementation of Indian education programs. Our specific concern was with the failure of these two Federal agencies to employ adequate measures insuring both fiscal and educational accountability.

Witnesses at our earlier hearing charged that the BIA had failed in two major areas. It has not developed an adequate monitoring procedure for keeping track of expenditures. And it has not developed goals and policies to promote quality education for Indian children. Our December hearing brought out that in 1973 a great deal of Johnson-O'Malley money was apparently misspent by the BIA in violation of the intent of Congress, and that some of it disappeared altogether.

In two New Mexico school districts, $166,000 more was received over a 2-year period by the districts under the Johnson-O'Malley program than was spent, with none of the surplus carried over for subsequent years, and none returned to the Federal Government.

The State of Arizona has refused to use any of the $3.8 million it received during fiscal 1973 under the Johnson-O'Malley Act for Indian special needs, in spite of its contract and the language of the 1934 law. Knowing this, BIA officials continue to accept the same contract terms year after year, and ignore contract violations.

There appears to be no followup to correct discrepancies, or to prevent the same problems from recurring.

The BIA appears to be unconcerned with accounting for funds appropriated by Congress. It may in fact be unable to account for expenditures for Indian programs, because it has developed no guidelines, no policies, and no specific objectives for improving Indian education.

According to earlier testimony the educational objectives developed by the BIA were established over 20 years ago. According to the witness these are "totally outdated." Our witnesses also made clear that even if valid education goals were developed for responsive and responsible use of funds, the present administrative structure of the BIA would frustrate their implementation.

The Office of Education has many of the same accountability problems found in the BIA. And our previous witnesses documented these. They told of duplication of effort within OE. And they told of little attempt to coordinate the programing of the $80 million OE spends each year on Indians. They also suggested the absence of any effective monitoring of expenditures. Underlying OE's failure to establish accounting systems is its refusal to single out Indians for special attention, ignoring the unique relationship between Indians and the Federal Government. The passage of the Indian Education Act in 1972 apparently has not affected this attitude. In fact, OE despite continued demonstrations of congressional intent and support of the act, has not requested sufficient funding for title IV. It has not been supportive of the National Advisory Council on Indian Education. And 2 years after this law was passed, we still do not have a permanent deputy commissioner. We have invited the chairman of the National Advisory Council, pending appointment of a deputy commissioner, rather than a representative of OE to give us his assessment of title IV administration by OE and of the National Council's ability to function according to the intent of Congress. We hope to have a deputy commissioner in the near future, and we expect to hear from the new appointee regarding criticisms and recommendations made in these two hearings.

Five years ago I presided over hearings of the Indian Education Subcommittee. Three years ago I presided over hearings of the Education Subcommittee on the Indian Education Act. Last year I presided over this subcommittee's hearings on Indian education. And here we are today. We will continue to hold hearings, pass laws, and appropriate money. We will continue our cooperation with and oversight of those Federal agencies responsible for implementing Indian education programs. This morning we seek more than assurances of sincerity and commitment. We are looking for signs of action, for concrete evidence of affirmative policies and procedures.

Our first witness is Dr. Clennon E. Sockey, director for the Office of Education programs in the BIA. Dr. Sockey is a new man in the Division of Education and cannot be held responsible for the mistakes of the past. But he should understand that these problems are the ones that must be tackled now.

We want him to be aware of the concern of those congressional committees and offices interested in the responsible implementation of Indian education programs. This is not a subject that will disappear if we turn our backs; we intend to honor our commitment to the Indian community.

[Dr. Sockey, a Choctaw Indian from Oklahoma, has served in his capacity as Director of Education since June 10, 1974. His background is in educational administration in both public and Bureau schools.]

## STATEMENT OF DR. CLENNON E. SOCKEY, DIRECTOR FOR THE OFFICE OF EDUCATION PROGRAMS, BIA, ACCOMPANIED BY ELIZABETH HOLMGREN, EDUCATION SPECIALIST; JERRY WADDELL, DIVISION CHIEF, INTERNAL SERVICES; BOB BRUCE, LEGISLATIVE SPECIALIST; AND EDWARD MARICH, ADMINISTRATIVE OFFICER, BIA

Dr. SOCKEY. Mr. Chairman, members of the subcommittee, I appreciate the opportunity to meet with you today to talk about Indian education programs. I want to thank you for your invitation.

If I may, I would like to preface my statement about some of the things that we are working on in Indian education with a few personal remarks.

Educating young people is, in my opinion, one of the most challenging tasks in our society. No matter what is done, there is always more that needs to be done and that can be done. The best education program is never enough.

Educating Indian young people is, for a variety of reasons, more of a challenge than that experienced in the various spectra. I knew this when I accepted my present position—and I might add that after 10 weeks on the job, I now have an even fuller realization of this fact.

I am an educator because I like this kind of challenge and the outlook is that it will indeed be a most rewarding experience.

As Director of Indian Education Programs, my concern is, and will continue to be that of helping Indian students to learn, to grow, and to develop their potential as fully as possible. My main focus will be on the student and the classroom; my daily work will be centered on making an impact on the classroom and improving the educational opportunities for Indian students. The Bureau of Indian Affairs education staff will be diligently working toward this goal. Your assistance and support will be needed and certainly shall be appreciated.

I will move now to some of our current activities.

Education is a process that can be greatly enhanced by or through active and effective involvement of parents and local communities. With this view in mind, I am fully supportive of the administration's policy of Indian self-determination in education and, I think that substantial strides have been taken toward its implementation in three ways: (1) giving Indian communities direct control of programs under the Bureau; (2) strengthening the advisory and consultative role of Indian people; and (3) helping Indian people develop professional and technical skills needed for effective self-determination.

In fiscal year 1974, 13 Indian communities operated their own schools under contract with the Bureau. Sixteen tribal or intertribal groups had contracts for the administration of Johnson-O'Malley funds for assistance to Indian students in public schools and 15 tribal or intertribal groups administered the higher education assistance program for their members.

Senator KENNEDY. Could I ask you how many Indian communities have BIA education programs? You didn't bring any of your associates here? Do you have some?

You can come up here and join if you would like to because these are technical questions.

Ms. **Holmgren.** Elizabeth Holmgren.

Mr. **Waddell.** Jerry Waddell.

Mr. **Marich.** Edward Marich.

Mr. **Bruce.** Robert Bruce, legislative coordinator for the Bureau.

Senator **Kennedy.** How many Indian communities have BIA education programs?

Dr. **Sockey.** Approximately 200 school centers.

Senator **Kennedy.** As I understand your testimony, 13 Indian communities operated their own schools under the contract with the BIA and 16 were in tribal groups that contracted with the administration of Johnson-O'Malley funds for assistance.

So you have 29 with direct control of 200 of them? Are my mathematics correct?

Dr. **Sockey.** Yes, sir.

Senator **Kennedy.** How many, say, 2 years ago had control?

There are no reasons that your associates or staff members can't answer the questions.

Dr. **Sockey.** From a total of four Indian contract schools in fiscal 1969 we have moved to 13 in fiscal 1974, with 2 additional schools pending for this current year.

Senator **Kennedy.** That is 9 in 5 years?

Could you tell us a little bit about that aspect, because that is obviously something which is terribly important to us. I am just interested in your sense of priority about that particular issue and what you are going to do about it. These are things that happened and we want to recognize prior to the time that you accepted this responsibility, but I am just interested in your own view of the importance of this particular issue, then if your staff people would let us know what is being done to alter or change that at the present time, we would appreciate it.

Dr. **Sockey.** Senator, we are currently operating on a secretarial objective which calls for greater Indian self-control as part of the Indian self-determination process. We will be contacting some 100 schools and affording 50 of these schools the opportunity to select their own system of management for the operation of their schools.

Mr. **Bruce.** If I may, Senator, may I interpose one point?

Senator **Kennedy.** Yes.

Mr. **Bruce.** Just this year we discussed with a group down in Mississippi the contracting of some schools, and after we had entered into a preliminary contract for that purpose, the group, the Indian group that sent their children to that school voted in a referendum not to contract. This is just one example of some of the problems we run into with reference to contracting this, because there are some Indians who sense they are not ready for contracting, even though we stand ready to do so in most areas.

We also feel that now that the Senate has acted on our contracting bill, and with House passage, it would give us some further assistance, like letting us make advance payments and some things of that kind which would be of more assistance in contracting.

Senator **Kennedy.** Well, as I understand it, in July 1970, President Nixon made the commitment to Indian control of Indian schools. Since the President made that statement, what has been done in the Department to see that it becomes policy? Can you tell us? Or do you intend to? I'd like to make it clear that I am not holding you accountable for things in the past. I understand this is a very complex issue. You are an educator and you understand the various aspects of it. What I am interested in getting from you today is a statement that you believe that it is an important policy and that you will do your best to see that it is implemented, and that you will get your staff people on that and ask them ways of getting it done at the earliest possible time. You should give us a report in 5 or 6 months and tell us how many schools that are going to have this control and whether you need legislative action to alter it.

I want to hear an affirmative kind of policy answer, or if not, then we want to know that as well.

Dr. **Sockey.** Some of these points, Senator, are referred to later in the report as we discuss this statement on page 4, also the BIA manual revisions which are covered on page 3. We will be covering some of these points as we move through this.

Senator **Kennedy.** Yes, I am interested in the statement, but I would also be interested in your personal view about the importance of this as a goal.

Do you believe this is an important goal or don't you? How important is it to you personally?

Dr. **Sockey.** I have stated that I fully support the administration's policy of Indian self-determination. I do feel it is important to have the parent community participation in assessing needs, in determining what the educational programs are to entail for Indian children. It will be around these particular views that we will be formulating and implementing the education plans as we move into the immediate and long-range future.

Senator **Kennedy.** What are you and your staff projecting for the next 4 or 5 months, concerning the success of Indian control?

Dr. **Sockey.** First of all, our plan calls for extending the option to the Indian. There are options available.

Senator **Kennedy.** That is not my question. My question was, schools are opening in a couple of weeks, and how many of the 29 that you now have do you anticipate will be under the direct control of Indians? Is it going to be any different this fall than it has been in this last school year? If so, how many?

Dr. **Sockey.** There are no new schools scheduled for contracting for the opening of 1974 under the plans that we are talking about at the moment. This is merely in the process of being developed. The plan has been introduced at the area levels and it is the responsibility of the area personnel to make contact with the various tribes in the field and extend these options to the tribes, and there has not been enough time, Senator, for us to get this prepared and get it into operation for school year 1974.

Mr. **Waddell.** But we are charged with 50 decisions. We are contacting 50 schools and getting choices from those 50 schools this year.

Dr. **Sockey.** Within fiscal year 1975?

Mr. **Waddell.** Within those 50 it is hard to say how many will choose.

Senator **Kennedy.** You have 200 schools, that means it will take 4 more years before they get a chance to get an option. Can you tell us you will get the 50 this year and 150 the following?

Dr. **Sockey.** Senator, I don't think it is fair for us to say, or even imply that we are going to be actually getting 50 commitments for contracts from the Indian population.

We are talking about affording them an option of management of the school systems. It will take a great deal of work, education, and training, I should think, to afford the Indian the greatest opportunity to intelligently make choices in terms of management of their school systems. Therefore, I would hesitate to go on record as saying that we are going to have 50 schools contracting as a result of even 100 contacts. It is a goal, but we will have to see.

Senator **Kennedy.** The problem is, as I understand it, there will be 150 schools that won't have the opportunity to make a judgment in your program, at least not this next year. Fifty may, but then you are not even considering the other 130.

Dr. **Sockey.** There is the option for the other schools to make requests for contracting purposes. These are schools that are coming under a concentrated effort and being worked with by Bureau personnel, again not as a forceful measure but extending an option to these schools for contracting.

Senator **Kennedy.** But it seems that they won't. They are not even getting a chance to make a judgment whether or how they want to proceed.

I don't know how many of the 29 schools that have direct control actually were self-initiated or how much they need in terms of technical assistance to develop their programs. It seems to me they ought to be given the alternative as to the kind of assistance and the kind of technical help if they want to move in this direction and that your shop ought to provide it for them. Maybe they don't want to; that ought to be something on which they make the decision.

But it seems to me that it is not a very aggressive effort to give them the offer that is being discussed.

Dr. **Sockey.** I am certainly in agreement with the desirability of extending the option.

Staffing becomes a factor when it comes to providing technical assistance and developing the training packages that are necessary and taking these forward to present them to the various peoples. Staffing becomes quite an important factor, Senator.

Senator **Kennedy.** Well, how many people do you have working on it now?

Ms. **Holmgren.** In Washington approximately three full-time within education——

Senator **Kennedy.** In Albuquerque?

Ms. **Holmgren.** Through the contracting section as opposed to education and I am not sure how many are involved there.

Mr. **Waddell.** The secretarial objective operating plan calls for Dr. Sockey's office to work with the areas and develop the training package that they can use to take to the tribes to get their choice, their decision. The secretarial objective, the objective of the Department is to contact at least 100 schools and get 50 decisions. We want to be on record with 50 decisions. So this is working through the areas.

Senator **Kennedy.** I think that the record from 4 in 1969 to 13 in 1974 is not very commendable. There is a substantial body of opinion that in too many instances the attitude of the BIA has been one of obstructionism rather than a desire to help these communities.

Dr. SOCKEY. Senator, I agree this is not the most impressive record, and it is an area in which we have an interest and an area in which we will be exerting a great deal of effort. This, of course, is part of what was indicated in the letter or discussion this morning, what we are doing and what we plan to do.

Our plans are definitely that of moving toward action. That is the thing that is really significant, for we all know plans without action are really worthless, so we will be moving for plans with action.

Senator KENNEDY. If a tribe decides to contract, is the BIA policy that the tribe itself has to assume severance pay for BIA employees?

Ms. HOLMGREN. No, it isn't.

Senator KENNEDY. Well, what is the policy?

Ms. HOLMGREN. On the transfer of employees to tribal employment from Federal employment; is that the area of concern?

Senator KENNEDY. Yes.

Ms. HOLMGREN. The Civil Service Commission of course has a great deal of protective power over civil servants, and there has been some confusion in trying to work out this transition. But we have finally satisfied all people concerned, we feel, with arranging a transition period where the Federal employees agree to become tribal employees but not necessarily immediately. We can take what is called a reasonable period of time in making this switchover. That is usually about 5 years, and this allows them then to seek other employment or gain a transfer within Federal service if they don't wish to become a tribal employee.

Senator KENNEDY. Who is required to pay their salary for that 5-year period? Does the tribe have to pick it up?

Ms. HOLMGREN. If they wish to remain civil servants it is the Government's responsibility to find other placement for them.

Senator KENNEDY. Does the BIA pick that up or do you take it out of the tribal contract?

Ms. HOLMGREN. The contract only reflects those salaries paid by the contract or to the employer who actually hires them.

Senator KENNEDY. Is Bureau policy that they have to be individuals who were working out there or that they have to be provided for out of the contract?

Ms. HOLMGREN. No, it is not.

Senator KENNEDY. Well, maybe you could just give us the regulations that prescribe that procedure.

Ms. HOLMGREN. Certainly, we have a manual section that describes that issue and we will supply it for the record.

Senator KENNEDY. How many of the 29 are going to be renegotiated this year; all of them?

Dr. SOCKEY. All of them.

Senator KENNEDY. Have they all been signed?

Dr. SOCKEY. No.

Senator KENNEDY. How many have been signed?

Ms. HOLMGREN. I would say it is approximately half and half. I don't have the exact figure.

Senator KENNEDY. When do the schools open up? Don't they open in another 2 or 3 weeks?

**Ms. Holmgren.** They will open even without the contract being renegotiated if there has been a delay. They will go on assuming the contract——

Senator **Kennedy.** And they will get funds to do it?

Ms. **Holmgren.** Yes.

Senator **Kennedy.** From the BIA?

Ms. **Holmgren.** Yes.

Senator **Kennedy.** What is the problem? I suppose there are different problems with different contracts but why is it that half have not been signed?

Ms. **Holmgren.** In several cases that come to mind offhand, there are several schools that have requested waivers, either to their personnel hiring prictices or to their curriculum requirements and the process of getting a waiver through, although there is no complication on it, it is a bit slow and they have chosen not to consumate the contract until they have had these waivers cleared.

In other cases, it is lack of staff in the areas to get the renegotiation scheduled, but in no case should it delay the program starting on time.

Senator **Kennedy.** Well, I want you to go ahead.

Is this going to be an area, Mr. Sockey, that you feel strongly about? Will these schools get some personal assurances from you that you will make every effort to afford them the opportunity to make a decision? And are they going to get the kind of help and assistance that is necessary for quality education programs?

Dr. **Sockey.** Definitely, Senator, particularly since this is a secretarial objective we are committed to maximum effort in this area.

Senator **Kennedy.** Based upon your own understanding of education and your knowledge of Indian tribes, how many of the 50 that are going to be required—or I guess you said 100 actually.

Mr. **Waddell.** 100 presentations.

Senator **Kennedy.** And you hope to get 50 responses?

Mr. **Waddell.** That is not a limit, Senator, that is a target. Alaska, for example, could be counted almost totally this year.

Senator **Kennedy.** How many of those do you think will vote for control?

Dr. **Sockey.** I would think, Senator, that a 25-percent margin might be reasonable. There are underlying factors that have to be dealt with. In effect, I think the Indian has to be afforded maximum opportunity to gain information and insight into the benefits that might be derived from the contract procedure, and a good deal of the success will depend upon a multiple number of factors. One, the trust, if you please, that the Indian has in the process of contracting, the belief in whether that is a desirable route for achieving the most effective educational programs for their children.

So in answer to the question, I would say 25 percent seems to be a reasonable figure.

Senator **Kennedy.** All right.

Let's proceed on this. I think you understand our sense of priorities in this area, and we are going to follow this. I know Senator Mondale, Senator Abourezk, and many of the rest of us are concerned about this issue; we have spent a good deal of time on it and are very much distressed that we haven't gotten further. We have gotten a lot of pledges and promises and very little action. We are very hopeful that you are going to really take the bull by the horns and get a change.

Do you want to proceed?

Dr. **Sockey.** Thank you.

In addition, there were numerous smaller contracts for various educational components such as summer programs, bilingual education programs, and ESEA title programs.

In fiscal year 1975 the Johnson-O'Malley funds for three areas, Albuquerque, Minneapolis, and Aberdeen, will be totally under the administration of tribal groups and the higher education assistance program will be fully under the administration of tribal groups in the Minneapolis, Albuquerque, and Navajo areas.

Affording Indian parents and communities the fullest opportunity to choose the kind of management system they prefer for their schools has been established as a secretarial objective for fiscal year 1975. The Office of Indian Education programs has developed a training package designed to help a school board, staff, students, parents, tribal leaders and others concerned to assess their school's programs and needs and to understand the management options available for operating that school—continuing under BIA management, becoming part of a tribal school system, operating with local community control under contract, or, when possible and desirable, achieving public school status. The objective and use of this training package has been explained to area office staffs who will be responsible for scheduling a total of 100 presentations during fiscal year 1975 to tribal groups. The objective of these sessions will be to prepare these groups to participate in program planning and a comprehensive needs assessment of at least 50 of the Bureau schools. The tribes and/or school boards of these 50 schools will be asked to prepare a resolution on their choice of a management system for the continued operation of the school.

Under the program plan for fiscal year 1975, 10 percent of the fiscal year 1974 budget for personal services and related expenses in the education program has been earmarked for contracting with Indians and so reflected in the budget request for fiscal year 1975.

Effective participation in the direction of Indian education programs through advisory school boards and community or tribal education committees is also being strengthened.

The Office of Indian Education programs is now in the process of revising the BIA manual sections pertaining to education—doing this in consultation with Indian people. For example, a proposed new section on goals has been developed based on the results of a survey by questionnaire of more than 3,000 Indian parents, school board members, and tribal leaders. This proposed section will be distributed for review and comment before being finalized. The revised manual will also include sections clarifying the important role of advisory school boards and stressing the desirability of training for board members to increase their effectiveness.

Senator **Kennedy.** When is the revision going to be completed?

Dr. **Sockey.** I believe, if I recall, our deadline is in March on the presentations.

Senator **Kennedy.** Is there any reason that you can't meet it? Are you on target?

Dr. **Sockey.** We are very, very close to target. We have an operational plan that does have the various tasks identified, individuals responsible for carrying out those tasks, and of course the dates within which these tasks are to be accomplished. We are very close to the target at this time.

Senator **Kennedy.** Do you know when that reconsideration of the manual started? I believe it was 5 years ago.

Dr. **Sockey.** I am not sure, Senator.

Senator **Kennedy.** Well, it is pretty close.

Mr. **Waddell.** That has been going on for quite awhile, for a number of years.

Senator **Kennedy.** For sometime.

Dr. **Sockey.** I know that has been going on for quite awhile.

Senator **Kennedy.** Let's make sure that is a tight target in terms of March. It seems to me that it is essential.

Just while I have you here, earlier on that page of your testimony you mention that 10 percent of the fiscal 1974 budget for personal services in the educational programs has been earmarked for contracting with Indians in the fiscal year 1975 budget. This sort of looks like 10 percent for Indian self-determination, doesn't it?

Mr. **Marich.** Senator that refers to the $11 million that has been targeted for additional contracts in connection with the operation of the school program. That is a considerable increase over what was contracted for school operations in fiscal 1974. It is more than double that amount, it is $11 million.

Mr. **Waddell.** That is not just restrictive to what can be contracted. The appropriation for school operations can be converted to contracting, Senator, along with this additional 10 percent. That also includes a 10 percent reduction in position ceilings in the Bureau for both 1975 and 1976.

Senator **Kennedy.** All right. Proceed.

Dr. **Sockey.** Senator, in commenting on the proposed new manual section, it is interesting to note that this particular section has not been updated for many years. We sent earlier this week to the Commissioner a status report on updating these new proposed manual revisions and there is action taking place in this important area.

Senator **Kennedy.** Just for my own understanding, let's get back to our earlier question about how many of the Indian schools would go for contracting and how many would not; and I think you reach a ball park figure of about 25 percent.

Why are some tribes reluctant to opt for contracting? What are the principal obstacles?

Dr. **Sockey.** Mrs. Holmgren has been one of the team members that we have had making visits and conferences recently. She might like to comment on that.

Ms. **Holmgren.** I have been quite actively involved in the contract presentation, particularly addressing school boards and community groups and various Indian groups throughout the country, and contrary to public opinion, it is surprising and often rather disappointing how many groups are very reluctant to consider this. We don't want to force it but we have committed ourselves to encourage takeovers. I would say the primary hesitance is based on fears of termination on the part of some tribes. They see this as one way of saying the Federal Government will no longer care for them, care about them. This is perhaps the dominant objection. Others feel they want the Federal Government to do a better job than it has been doing, which is certainly a fair enough objection. It is a rather ominous task to hire staff and buy food and run buses.

To counter that argument we have suggested partial contracts to perhaps just run the staffing of the school or perhaps just take over the food and transportation services as a start and then see how that goes, and that has worked in some cases but usually it is more of an alternate consideration.

So they have expressed a number of reasons for not being enthusiastic and this unfortunately doesn't get as much attention as the insistence on a contract.

Senator KENNEDY. Do you want to proceed?

Dr. SOCKEY. New Johnson-O'Malley regulations now completed and published in the Federal Register on August 21, 1974 give the local Indian community the major role in determining how these funds should be used. As you know, this was primarily the responsibility of school officials in the past. I should add that these regulations were developed with maximum involvement of Indian people. These regulations have been under revision over a long period of time and I know that they cannot be satisfactory for everyone. They are, however, much improved regulations which are responsive to the Indian people we serve. I am confident that the end result will be better programs for Indian children.

The old regulations, last revised in fiscal year 1957, stressed the financial need of the school districts for operational costs. The new regulations stress the educational need of the students for special supplemental programs. It is expected that at least 80 percent of the fiscal year 1975 funds will be used for such supplemental programs and that the local Indian education committee, selected by the community, will determine the needs and thus the programs.

Some other changes from the old regulations are:

Eligibility for assistance is broadened somewhat by eliminating the Indian-owned, tax-exempt land requirement, but is still limited to Indians living on or near reservations;

Funds may be used for preschool children and for other educational programs not conducted in the school setting—a tutorial program, for example;

Eligibility requirements for school districts seeking funds for operational expenditures have been considerably tightened;

Provision is made for more equitable funding between States and within States; and

Program and fiscal accountability requirements have been greatly strengthened.

In conjunction with this revision of the regulations, we are now amending the manual section and developing an operating plan for ongoing monitoring of both programs and fund use. The problems that have afflicted the the Johnson-O'Malley program in the past will not disappear overnight, but they are being met in what I think is an effective manner.

Indian self-determination is also being furthered through the Bureau's career development program which uses a coordinated approach to solving the problems individual Indians face in career selection and in obtaining needed training or education. Under this new program approach, initiated by Commissioner Thompson this year, funding assistance and counseling services for a full range of activities, including college work, institutional vocational training, or adult education—separately or in combination, will be available from a single source. This approach is designed to insure that these programs, formerly under separate administration, would complement each other in meeting the needs of the individuals served.

The vastly increased number of Indian students on college campuses in the past few years is particularly significant, since it should mean a greatly increased number of Indian lawyers, educators, and other professionals available to serve Indian communities. In fiscal year 1975 it is expected that more than 16,000 Indian college students will receive grants from the Bureau to help them obtain a college education. The budget request for higher education assistance in fiscal year 1975 is a record $29,965,000—approximately $7 million more than in fiscal year 1974.

Finally, I would want you to know that we are well along with the development of a long-range plan for assessing school construction needs Bureau-wide and for establishing priority criteria. And we have established as a Commissioner's objective for fiscal year 1975, improving the accountability of Bureau education programs to Indian people and to Congress. An operating plan to achieve this objective is being developed. The Bureau's overall evaluation process, including fiscal audit and educational information system, must be strengthened. Program evaluation and needs assessment have been stressed this past year and we expect to have completed an annual, Bureau-wide evaluation process before the end of the year. Steps have also been taken toward the development of a satisfactory pupil accounting system, the establishment of standards for fund allocations, a student record transfer system and other system elements. In this area, however, much remains to be accomplished.

Thank you for your patience in listening to me. I will be happy now to try to answer any questions you might have.

Senator KENNEDY. Thank you very much.

Could you tell us a little bit about these regulations? Have they the approval of the Red Regs group?

Dr. SOCKEY. Let me refer to the revised JOM regulations which were published in the Federal Register yesterday. I might go area-by-area taking the old provisions and comparing them with the new provisions in these respective areas.

In the area of eligibility the old regulations contained nontaxable land restrictions. In the new regulation, we remove the trust land requirement, but continue to serve Indian students who are eligible for other Bureau of Indian Affairs services on or near reservations.

In the area of distribution of funds, the old regulations refer to financial eligibility based on a school district's financial need. There have been court cases, decisions stating that school districts need not provide financial or operational expense needs in order to qualify for supplemental funding for special need programs. In our new regulations they have set forth very rigid requirements for basic support, that is operational funding, and then provide for additional special need funding. The funding is broken into these two specific categories so that there can be no question of eligibility to receive funds.

Also, the new regulations will comply with the congressional mandate to offer equal educational opportunities through equitable distribution of funds.

Another important area is Indian parental participation and control. The old regulations made no specific reference to this point. The new regulation is to be further strengthened by the manual and will require such participation.

The Indian Education Committee selected by Indian parents will assess the needs of Indian students and have full authority to approve or disapprove programs designed to meet special needs. If a school district is determined eligible to receive basic support, that is operational funds, the elected school board will have authority over expenditure of these funds.

Under the new regulations, the Indian Education Committee may operate special need programs, that is, in the area of tutorial programs, preparatory and so forth, outside the regular school program. These programs must be related to the regular school program, however, and designed to help Indian students take full advantage of the regular school program.

The Indian Education Committee may on an individual basis assess Indian student progress, review pertinent records, and recommend assistance needed.

The area director under the new regulations will not sign a contract unless there is evidence of local Indian participation. This is a means of attempting to get Indian involvement and carry out the provision of Indian self-determination.

In the realm of accountability, the new regulations were reviewed, audited, and investigated in the contract unit and meet their approval in terms of accountability. They provide for full fiscal and program accountability through a system of monitoring, auditing, and evaluation, and this is an area, Senator, I am happy to report, that we are placing a great deal of stress upon. We are indeed concerned about some of the past history and record relative to the operation of JOM funds and expenditures of JOM funds. Therefore, we will be placing action in the area of monitoring, auditing, and evaluation.

Senator KENNEDY. Perhaps we could get back to the specific question. I know that you have met with and worked with the Red Regs group. Could you tell us in what areas they disagree with you?

Dr. SOCKEY. I am under the impression, Senator, that the group who is responsible for the Red Regs is quite happy with this new set of regulations. As you said, they were involved in consulting with us and working with us. They were afforded an opportunity to make input into this new set of regulations.

In answer to the question, I am under the impression that they are satisfied with the new set of regulations, though the regulations certainly may not be perfect.

Senator KENNEDY. Are you continuing to solicit their reaction to these published regulations now?

Dr. **Sockey.** Indeed, we are open to comments or criticism at any time. However, these regulations that were published yesterday are to be in effect for the 1974 school terms. How soon we will be moving with any additional change, I am not prepared to answer at this time.

There is additional preparation going on in the education program Central Office Division, and that is that we are moving to consider a contract for the purpoose of identifying additional areas of need for JOM assistance. We think there might be a considerable number of students, for instance, located in urban areas who are currently not receiving JOM benefits. We would like to identify where these students are, how many there are, and what the cost might be to expand these services beyond the ordinary concept to perhaps all the United States. If we are able to obtain hard data we possibly would have justification in asking for additional funding in the JOM program. We might see the necessity of recommending legislation for strengthening the JOM program. It could be that we found ourselves having to do a great deal with regulations which perhaps should be done through legislation. Therefore, we are taking a very careful look at this and will be doing this in fiscal year 1975. In fact, the preparation is underway in our central office at this time.

Senator **Kennedy.** Could you tell us a little bit about your reorganization and the educational component in the central office? What educational and administrative factors were considered and what process was following to arrive at the present organization?

Dr. **Sockey.** Are you speaking in terms of the reassignment that has currently been going on?

Senator **Kennedy.** Yes.

Dr. **Sockey.** Senator, I feel confident that you are aware that there is a subcommittee meeting coming up tomorrow morning with Senator Abourezk. At that time the Commissioner, the Personnel Director, the Administrative Officer for the BIA Washington office, and other individuals will be involved. I really feel it would be perhaps more pertinent if we were to secure our information from that particular hearing.

Senator **Kennedy.** That is fine. They will get the information. But I wouldn't think there is any problem of just responding to that question here as well.

Dr. **Sockey.** Yes, sir.

Well, first of all, of course we recognize that a great deal of the formulation of the reorganization took place prior to my coming on board. I inherited this change that is in the process of being placed in effect.

I think after we see what the outcome of the realinement really is, I think I will be in a much beter position to make a real assessment of the complexities, the needs of the central office organization and how we can best meet these needs of policy setting and extending technical assistance throughout the educational programs for the Bureau of Indian Affairs.

Senator **Kennedy.** Well, I gather from your response that the realinement isn't finalized, at least as far as you are concerned.

Dr. **Sockey.** It is just in the process of being finalized.

Senator **Kennedy.** Could you tell us how many Indian educators you have in the Education Division?

Dr. **Sockey**. Yes, sir. Of course, you recognize that we have two offices as far as central office is concerned. We have the Washington Division and the Albuquerque Division. We have a total of 72 employees, 23 of whom are Indian, 47 of whom are non-Indian.

Senator **Kennedy**. Now, give us a little breakdown of the Indian and non-Indian grading.

Dr. **Sockey**. In the GS–15 we have a total of eight GS–15's two of whom are Indian, five of whom are non-Indian and one vacancy. At the 14 level we have a total of 16, 3 Indian, 13 non-Indian.

At the 13 level, a total of 12, 1 Indian, 11 non-Indian.

At the 12 level, a total of eight, two Indian, five non-Indian.

At the 11 level, a total of five, two Indian, three non-Indian.

At the 9 level, total of three, one Indian, two non-Indians.

At the 7 level, total of nine, seven Indians, two non-Indians.

At the 6 level, total of two, one of each.

At the 5 level, total of six, three Indians, three non-Indians.

At the 4 level, a total of two, one non-Indian, one vacancy.

Senator **Kennedy**. It seems that the distribution of Indians is light at the top level and heavier at the lower level, certainly, percentagewise. Are you going to change that?

Dr. **Sockey**. I beg your pardon?

Senator **Kennedy**. Are you going to change that? Are you going to alter that to try to get more Indians up into higher levels of responsibility?

Dr. **Sockey**. First of all, Senator, of course, we have the Indian preference factor that must be fully recognized and implemented. It is my hope that we can indeed identify qualified Indians who can fill positions at the upper levels, and that we can get a better balance of Indians in these higher GS level positions, yes, sir.

Senator **Kennedy**. We would be interested during your tenure to know about the vacancies that occur and the efforts that are being made in the Department to fill these vacancies with Indians, particularly at the top level. We would be very interested in what procedures you are following in trying to secure the employment of Indians at higher levels.

So perhaps you could get us a note on what you will do to try to get qualified Indians into those positions.

Dr. **Sockey**. First of all, our positions will definitely be announced. We will make efforts to——

Senator **Kennedy**. That is what I am interested in, your efforts. People come before our committee year-after-year and say we will make efforts. I am interested in what you plan to do, because if you are just going to follow the old kinds of procedures, I don't think there is going to be much of a change.

Dr. **Sockey**. Well, first of all, Senator, I am happy to say that our higher education programs that have been in effect in recent years, particularly the last 3 or 4 or 5 years, has been affording a greater number of qualified Indians. This is encouraging, for provided these people are interested in serving in the Indian services, Bureau of Indian Affairs in the branch of education, naturally they will be afforded the opportunity to do so. In fact, they will be extended encouragement to do so. We are definitely in need of qualified Indian educators.

Senator **Kennedy**. How many Indian educators do you have in that group—the Education Division?

Dr. **Sockey**. Within this breakdown which I gave you?

Senator **Kennedy**. Yes.

Dr. **Sockey**. Eleven.

Senator **Kennedy**. And where are those, here in Washington or out in Albuquerque?

Dr. **Sockey**. Most of them are in Albuquerque.

Senator **Kennedy**. How do you run the shop here in Washington when most of the educators are in Albuquerque?

Dr. **Sockey**. Fortunately, Senator, during my 10 weeks on board, I seem to have a very harmonious and close working relationship with the Albuquerque office. I do not say, however, that it is the most desirable arrangement to have an important office like this located in two separate locations such as we are currently experiencing. The services have been, I think, effective in spite of the offices serving in separate locations.

Senator **Kennedy**. In the last year or so, has the number of Indian educators in the Education Division increased, or decreased? Do you know?

Dr. **Sockey**. I think it is more. I think the number is growing, Senator.

Senator **Kennedy**. You have had more Indian educators recently?

Dr. **Sockey**. We had more. I am sorry. The cutback, I suppose has taken some. I have not reviewed the past history.

Senator **Kennedy**. Which cutback is that?

Dr. **Sockey**. There has been a reorganization going on in the Bureau for the last year and a half.

Senator **Kennedy**. Well, why do the Indians lose their jobs with reorganization?

Dr. **Sockey**. As I understand it, Senator, in handling personnel matters, the retention factors which apply on an individual basis, and, for example, as a veteran, an Indian would have greater preference that a non-veteran and a non-Indian, and as I understand it, it is merely a matter of what the factors have been that have been involved in each individual case.

Senator **Kennedy**. Well, as I understand it, there are other vacancies that are not being filled in the other departments of the BIA. Aren't there about 70 vacancies in the whole central office? Isn't that about right?

Dr. **Sockey**. I am sorry, Senator, I can't speak to that point.

Mr. **Waddell**. Right, yes.

Senator **Kennedy**. The point is, that in the reorganization, the Indians are the ones who lose their jobs, you have vacancies in the central office that are unfilled. Doesn't it make sense to close down these vacancies rather than have Indian educators lose their jobs? I don't understand the reason for it.

Dr. **Sockey**. The one vacancy we have in the Washington office in education will be posted as far as I know and will be open to qualified Indians.

Senator **Kennedy**. Well, that really doesn't get to the point that I was making. Evidently you had more Indian educators in recent months, you have less now, and you still have vacancies in the central office. If you are reorganizing or cutting back, it seems to me you can abolish the vacancies rather than the jobs held by Indians.

Dr. SOCKEY. Senator, the one vacancy in Washington that exists is a grade 15 position, and those professional educators that have been displaced from education are not at the grade 15 level and could not qualify in the procedures, the retention registers that apply for the placement of individuals. It was too high of a grade for them to reach.

Senator KENNEDY. In what respect was it too high?

Mr. MARICH. The retention registers and reduction procedures in displacing individuals from education are applied to where a person at a particular grade could only be placed at that particular grade in another organization. He could not be given a promotion during this reorganization procedure.

Senator KENNEDY. Well, we have to look at the bottom line on some of these things. There are always reasons why things don't happen. If we have to keep looking at the rules to find a regulation to bar Indians from those positions, I suppose we can find them. But you are held accountable for the results. We listened over a year ago to Mr. Hawkins make the same kind of statements and comments to the effect that the Bureau was going to do a great deal more to bring in Indians, and the results have been a farce. Everybody can find an excuse. It is the easiest thing. We are just hopeful that rather than finding all the reasons why you can't do something that you you will find some reasons why you can.

I have some other questions but I will file them in written form because we have to move along.

I want to thank you very much.

I want you to know, as I am sure you do, that there are a number of us on this subcommittee, on the Education Subcommittee, such as Senator Mondale, and on Senator Abourezk's Indian Affairs Subcommittee, who are extremely interested in this whole program of Indian education. This Subcommittee on Administrative Practice and Procedure is very interested in the procedures and practices of the BIA and we are going to continue our oversight. We want to work with you and cooperate with you. We want to know where you need legislative assistance and we will make every effort to help. But we are going to be after you as well, and we hope to see you carry out some of these commitments and guarantees which tragically have not been carried out by your predecessors.

We want to wish you the best of luck in your new job.

We thank you and your associates for appearing before us this morning.

Dr. SOCKEY. Thank you, sir.

Senator KENNEDY. The second witness, Dr. Will Antell, is Chairman of the National Advisory Council on Indian Education. Dr. Antell is a member of the Chippewa Tribe, and currently serves as assistant commissioner of education for the State of Minnesota. He is and old friend to those of us who worked on the Indian Education Subcommittee, particularly to Senator Mondale. Dr. Antell, we welcome you here. Senator Mondale regrets that, because of previous commitments, he cannot be with us this morning.

## STATEMENT OF DR. WILL ANTELL, CHAIRMAN, NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION, ACCOMPANIED BY CLARENCE SKYE, COUNCIL MEMBER, NACIE, AND DWIGHT A BILLEDEAUX, EXECUTIVE DIRECTOR, NACIE

Dr. ANTELL. Senator Kennedy, and for the record, members of the Senate Subcommittee on Administrative Practice and Procedure, I am Will Antell, and I would like to introduce two members.

On my left is Clarence Skye, who is the Chairman of the Legislative Committee of the Legislative Council.

On my right is Dwight Billedeaux, Executive Director of the National Advisory Council.

We are very delighted, Senator, to have this opportunity to share with you our feelings about Public Law 92-318, known as the Indian Education Act of 1972.

The Council was grateful for your subsequent support on behalf of Indian education and want to commend you for the outstanding leadership in getting the Indian Education Act of 1972 passed into law.

I must apologize, Senator, at this time that our statement is not completed, but we would like to have it inserted in the record and hope it will be here within the hour.

Senator KENNEDY. It will be inserted. We can keep our fingers crossed.

[The statement referred to above follows:]

### PREPARED STATEMENT OF DR. WILL ANTELL

Senator Kennedy, and members of the Senate Subcommittee on Administrative Practice and Procedure, I am Will Antell, Chairman of the National Advisory Council on Indian Education. We are delighted to have an opportunity to share with you our feelings about Public Law 92-318, known as the Indian Education Act of 1972. The Council is grateful for your excellent support on behalf of Indian Education and want to commend you for the outstanding leadership displayed in getting the Indian Education Act of 1972 passed into law.

Essentially, my remarks this morning will carry two themes, in a sense it may be called the good and the bad news. Before I begin that assignment, however, let me offer some brief comments on the membership of the Council. They are listed as follows:

Ellen Allen, Kickapoo, Kansas;
Theodore George, Clallam, Washington;
Ann Coleman Glenn, Choctaw, Oklahoma;
Genevieve Hooper, Yakima, Washington;
Sue Lallmang, Seneca, Virginia;
Patricia McGee, Yavapai, Arizona;
Daniel Peaches, Navajo, Arizona;
David Risling, Hoopa, California;
Geraldine Simplicio, Zuni Pueblo; New Mexico;
Clarence Skye, Sioux, South Dakota;
Fred Smith, Seminole, Florida;
Boyce Timmons, Cherokee, Oklahoma;
Karma Torklep, Lumbee, North Carolina;
Joseph Upicksoun, Eskimo, Alaska.

The Council represents diverse areas within the United States and is an excellent cross section of American Indians. These are parents, tribal leaders, educators, and other professionally trained individuals which seems to me to be reflective of the intent of the Congress. The Council believes strongly in representing Indian citizens wherever they live, and does not purport to represent their tribe, state or region in which they live and work. The Council when initially appointed, suffered undo criticisms, which in my judgment was totally unfounded. During the last fifteen months the Council has demonstrated its keen commitment and determination to improve educational opportunities for Indian people.

Mr. Chairman, I can attest to this point, as the Council and its staff has worked far and beyond the call of duty to perform its responsibilities established by law. I am extremely proud to be a colleague of this outstanding group of American Indians and predict they will be acknowledged as such when their assignment is completed.

P.L. 93–318 is generally recognized as one of the most significant pieces of legislation dealing with Indian education ever passed by a Congress of the United States. That thought may be expanded to all legislation dealing with education, because it provides for those being served, making the decisions for what they believe is necessary to make a difference. It penetrates deeper than ever before by giving control at the local level to the people it intends to serve. It causes public school districts to develop a positive relationship to Indian communities. This is a new era in the lives of American Indians. Historically, they have been shut out in planning programs, developing budgets, and sharing in the decisionmaking process which is so common to Anglo communities. The benefits of legitimate involvement cannot be easily measured; however, if one witnesses the enthusiasm, knowledge, and determination of local Indian education committees, one cannot help but believe significant phenomenas are occuring. One of the greatest contributions a parent can make to his child is positive reinforcement. The encouragement, understanding and assistance of these parents involved, will in my judgment, prove to be an invaluable contribution to their child's educational success.

For example, in Part A of Title IV, the Office of Education made grants to 854 school districts. The average size of Parents Advisory Committees is ten (10) and for those funded that represents approximately 8,540 Indian people involved. It is estimated another 400 applied, but were not funded and that increases the number even more. The Office of Education estimates there are nearly 1600 eligible school districts and should the vast majority succeed in getting funded there will be literally thousands of Indian parents involved in crucial decisions affecting the education of their children.

Parts B and C do not require advisory committees; however, nearly all of the 136 funded projects under B and 42 funded under C, for fiscal year 1975, were granted to Indian tribes or Indian controlled organizations.

One can easily observe from this brief description the involvement of Indian people locally has multiplied a hundred fold over the last 2 years.

All of Title IV has as its major objective, the programs must meet the special needs of Indian people.

Historically, millions of dollars has been appropriated by the federal government designed to educate Indian people. The latitude of state and local educational institutions was obviously too great, for they rarely considered the special educational needs of Indian children. All proposals funded under this act address that question squarely and it is reassuring to know those needs were determined locally by Parent Advisory Committees.

A significant number of proposals under Part B reflect great interest on the part of Indian communities to develop programs centered around Indian history and culture. The strengthening of, or rebirth of ones heritage has become a priority in all phases of Title IV. School districts receive funds under Part A are developing curriculum materials reflective of the cultural characteristics of local Indian tribes. This cooperative venture between schools and Indian communities is meeting with great enthusiasm.

This process has begun to create more respect and knowledge on the part of non-Indians and creates a positive self image on the part of Indian people.

For the first time in the history of federal government—Indian relationships P.L. 92–318 does not restrict services going to non-reservation Indians.

Indian people wherever they reside are now eligible to participate in programs designed to meet their needs. For example, in Minnesota 3500 Indian students were eligible to receive services under the Johnson O'Malley Act; however, there are nearly 12,000 Indian students in the public schools in Minnesota of which 10,314 are now being served under Title IV, Part A. While data are sketchy from other states in this instance, evidence suggests identical circumstances do prevail. In some states, particularly in the eastern part of the country, states do not receive Johnson O'Malley funds. There is a great deal of debate in regard to duplication of funds between these two programs along with ESEA Title I programs. While no accurate information is available, preliminary studies indicate this is not the case. It is our understanding a study currently undertaken between the Office of Education and Bureau of Indian Affairs is in progress.

Unfortunately, the National Advisory Council on Indian Education has had no input into this research effort.

The National Advisory Council on Indian Education has held field meetings in New Mexico, Colorado, California, Louisiana, and Alaska and all testimony has been extremely positive in terms of what Title IV means to Indian communities. Local Indian communities are certainly not without problems, however; the legislation has the potential to make significant impacts on the education of Indian people.

The problem most often mentioned is the school districts refusing to accept the notion that Parent Advisory Committees have authority and control over these programs. Where the majority of school districts have accepted this proposition, there are those who still refuse to accept it, claimed federal intervention in local school districts jurisdiction.

However, Indian Parent Advisory Committees are gaining more confidence and sophistication in dealing with this issue causing school districts to offer less resistence.

There is a need to press this point more effectively from the U.S. Commissioner of Education. Chief state school offices generally know very little about Title IV, because they have little or no involvement in Title IV operations. However, the Council feels that leadership in OE could be helpful with persuasive dialogues with chief state school offices who obviously play an important role with local school officials.

The National Advisory Council is disappointed in that funding for fiscal year '75 will be the same as in fiscal year '74. In an earlier statement, I indicated there are potential 1,600 school districts eligible for Part A funds, however; only 854 were actually funded. Should the rate of school districts receive funds in 1974–75 increase in 1975–76 as it did from 1972–73, it is estimated the per capita payment for each Indian student will drop from $112 to $75. Should inflation and school costs rise as they have during the past year, one can only guess what impact these resources will have.

It is very confusing to the Council why the administration never requested funds for fiscal year 1975 for Part A. The Office of Education has always argued that they are spending vasts amounts of money for Indian Education and that Part A only duplicates what others can do. While those figures are generally impressive, they do not tell the correct story. For example, in fiscal year 1974, the Office of Education reported 117,500 Indian children received 42,288,398 under ESEA Title I. Every Title I administrator at the state or local educational institutional level will tell you that Title I funds do not serve Indian children, it serves children whose parents are in low income categories and are deficient in the basic skills. Furthermore, 17,567,233 of that figure was transferred to the Bureau of Indian Affairs who serves only approximately 30% of Indian school age children.

Title I clearly does not, whether in public schools or BIA schools, direct its efforts toward the special needs of Indian children. Another instance where the Office of Education reports substantial expenditures in education Indians comes from P.L. 874. This is purely an entitlement program for local school districts. The intent of P.L. 874 is to relieve the financial pressure of local school districts who have substantial amounts of non-taxable lands. Indians have never benefited from this program as it clearly is not intended to provide resources to meet special needs of Indian children. For the same fiscal year, 874 and 815 were reported to produce 30,839,000 and 11,200,000 respectively to Indian Education.

The Office of Education alleges they expended in Fiscal 1974, $140,432,423 for Indian Education of which $84,377,398 alone came from the 3 programs mentioned. If one would examine carefully where the Office of Education claims to have expended resources for Indian education in all other categories the figure would more than likely shrink even further.

It remains a great mystery to the Council that the Department of Health, Education and Welfare turns a deaf ear to our concerns and recommendations. The Nixonian Policy of self-determination seems to have had little if any impact on the Office of Education. While it is pleasant, Mr. Chairman to report on the impact Title IV has generated in behalf of Indian Education, it is not a pleasant task to discuss the bad news which relates entirely with our relationships with the Executive branch of the federal government, namely the Office of Education. Let me touch on a few of the most crucial problems.

As you know Senator Kennedy, the Executive branch of the federal government under the past United States President has never accepted this piece of legislation. As a matter of fact, they were under court order to appoint this council, release and obligate funds before June 30, 1973. This happened in May, 1972 and from that beginning, our Council has engaged in an uphill struggle which to us at times seems insurmountable. Every member of the Council accepted their appointment in good faith, with the belief we could contribute meaningfully in behalf of Indian education.

We remain steadfast in our faith because we witness exciting developments in Indian communities, but maintain we could accomplish much more if the U.S. Office of Education would utilize our advice in a legitimate manner.

When the Council was first appointed the former U.S. Commissioner of Education requested the Council proceed carefully and slowly in submitting to him, as we are required by law, a list of nominees for the position of Deputy Commissioner of Indian Education in the U.S. Office of Education. While we were anxious to have this vital position filled immediately, we accepted Dr. Ottina's advice.

The Council appointed a Search Committee to recruit candidates for the Deputy Commissioner position. Careful and well though our criteria was established and all candidates were appraised of the Committee's intention to find candidates who possessed those skills described, personal characteristics and necessary training to be nominated for consideration by Dr. Ottina.

Our process began in July, 1973 and the Search Committee presented its recommendation to the full Council October, 1973. Within a matter of days Dr. Ottina was presented in person our list of nominees. The nominees in order of preference were Dr. William Demmert, Jr., Mr. Earl Barlow and Mr. John Wade. Dr. Ottina indicated it was his desire to have the position filled by the end of calendar year 1973. The Office of Education interviewed all candidates during December of 1973 and shortly after these interviews were completed, Dr. Ottina informed the Council, John Wade was no longer considered for the position. He also concluded in his remarks to the Council both Dr. Demmert and Mr. Barlow were acceptable to him and he would submit both names to the U.S. Civil Service Commission. He made that statement to me in January, 1974, and to the full council in February, 1974. Both these qualified individuals have strong endorsement from tribal leaders and National Indian education organizations. After repeated requests he made the same statement to the Executive Committee in March of 1974.

We learned later that all of Dr. Ottinas's statement were inaccurate. In a letter to our Executive Director, Mr. Dwight Billedeaux, Joseph Damico of the United States Civil Service Commission, reported, "In March, 1974, the Department of Health, Education, and Welfare submitted the name of Earl J. Barlow as their nominee for the Deputy Commissioner for Indian Education position. However, because of unclear reasons H.E.W. requested that the submission on Mr. Barlow be returned to them without action."

This seems to be a contradiction of all information passed to the Council by one of the highest ranking education officials in the United States. Furthermore, the letter from Mr. Damico states, "In May 1974, the agency requested we then consider the qualifications of Mr. William Demmert for the position." On May 21, 1974, the day Dr. Ottina was to appear before a Congressional committee, he called Mr. Billedeaux and myself to inform us that Dr. Demmert's nomination was rejected by the U.S. Civil Service Commission. At that time we were unaware of the above mentioned developments. The Damico letter dated June 13, 1974 was received shortly afterwards when we learned the full story. Needless to say, our confidence in leadership in the Office of Education dropped to an all time low and remains that way at this time.

The Damico letter rejected Dr. Demmert on the basis of the level and depth of his training and experience. Where we might consider the latter characteristic a debatable point, it is difficult for the Council to question Dr. Demmert's successful graduate record at Harvard University, one of the great institutions in the World. If one accepts the notion that training is commensurate with successful completion of undergraduate and graduate degrees, one must question whether existing G.S. 18 appointments in federal agencies can match the record of Dr. William Demmert.

While Civil Service has made its decision, we have argued that congressional intent authorized the National Advisory Council on Indian Education to set certain criteria in the search process because law specifically says, "the Office will be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted by the National Advisory Council on Indian Education." (Sec. 441(a))

The difficulty at this time rests with our inability to meet with the recently appointed U.S. Commissioner of Education, Dr. Ted Bell. At our last meeting, in July 1974, we requested legal assistance from the Native American Indian Rights Fund to seek a meeting with Commissioner Bell. On August 21, 1974, a representative for the Commissioner's office suggested the Commissioner would meet with us on September 13, 1974. If this long delay in responding to a meeting request with the Commissioner suggests to us there will be little change in behavior or attitude toward the National Advisory Council on Indian Education. A simple question seems in order, "does Indian self-determination have any meaning at all?" Is it just another popular cliche used to dupe people?

We have decided to pursue this issue more vigorously than ever. We feel strongly that our role in this selection process cannot be so easily disposed of by the Civil Service Commission. We will continue to argue that we have a vital responsibility in this case and request the Congress make those responsible for this unforgivable delay and action be held accountable.

One might argue that Title IV is successful which would suggest existing leaders in the Office of Indian Education are satisfactory. We certainly don't want to intimate that program managers of Title IV are not performing their tasks well. On the contrary, they are Indians and doing an excellent job. However, the Acting Deputy Commissioner of Indian Education, his special assistant and key policy makers are not Indians. Furthermore, it is this echelon of administrators who tend to discount the importance of the National Advisory Council on Indian Education. They are busy developing future Indian education policy, making key decisions without meaningful relationships with our Council.

Many of these people are experienced bureaucrats and will always find reason to support their actions. While we recognize the federal government can be an awesome place to perform, all we ask is that the U.S. Office of Education solicit from us the advice and assistance they are required by law to consider.

Recent decision from the Office of Budget and Management have further restricted the freedom of National Advisory Councils. Our staff which we hired are now under Civil Service and assigned as staff members to the Office of Education. It seems they have several masters. Who are they accountable to? The Council? The Office of Education? Or Who? Furthermore, our Council is subject to control by the U.S. Office of Education. The budget allocated to our Council is now within that office, and we cannot expend it without going through several stages which could take up to several weeks. They make final decisions whether our council will meet, where we will meet, and a whole host of other decisions which we feel we are capable of making. It is another blatant attempt to control the Council and its activities. Hopefully, the Congress will examine this policy and restore our autonomy or we will not be able to perform legitimately our responsibilities. This clearly again seems to be in contradiction to the intent of the Congress who wanted Indians to have some control over programs and resources and decisions affecting the educational lives of their children.

Invitations to attend the Presidential signing of H.R. 69 August 21, 1974 were sent to all chairman of National Advisory Councils. However; our Council was not extended an invitation. Because I was in Washington preparing for other testimony, I learned of this development. I protested to the Commissioner's office and a half hour before the President was scheduled to sign the bill, a ticket was given to me. In inquiring whether the Bureau of Indian Education in OE was also invited, I learned two non-Indians were given passes. This was disgusting while that office was represented by two non-Indians, several well deserving Indians in that office were back at the stations performing their duties. This could be regarded as "petty," perhaps it is, but it is one of the numerous happenings which tend to gnaw at your insides, and you began to wonder "will Indians ever be offered decency and equality."

Mr. Chairman, there are only a few examples of the difficulties our Council has encountered with the Office of Education. It would not be a difficult task to spend the rest of the day expounding on other problems. Hopefully this brief testimony will afford the U.S. Senate an update of progress on P.L. 92-318.

The Council believes the legislation passed in 1972 and amended in 1974 will have greater impact on Indian Education than any other law passed by the Congress. The potential is definitely there and it remains to be seen if the U.S. Office of Education under new leadership can fulfill its role by properly utilizing its major advisory councils.

Mr. Chairman, this concludes my statement, on behalf of the National Advisory Council on Indian Education, sincere and special thanks for this opportunity to present these vital concerns.

Dr. ANTELL. Essentially, my remarks this morning will cover two things. In a sense it will recall the good news and the bad news.

Before I begin that assignment, however, let me offer some brief comments on the membership of the Council.

The Council represents a diverse area within the United States and is an excellent cross-section of American Indians. There are parents, tribal leaders, educators, and other professionally trained individuals which seem to me to be reflective of the intent of Congress. The Council believes strongly in representing Indian citizens wherever they live, and does not purport to represent their tribe, State or region in which they live and work. The Council, when initially appointed, suffered undue criticism which, in my judgment, were totally unfounded. During the past 15 months the Council has demonstrated its keen commitment and determination to improve education for Indian people.

I might point out in addition to this very, very important assignment, all of us hold down fulltime employment in other capacities in the areas in which we live. During this past year I believe we spent on the average of 32 days in fulfilling our obligations and responsibilities as members of the Council. I can attest to this point is a Council and a staff that has worked far and beyond the call of duty to perform its responsibilities established by law. I am extremely proud to be a colleague of this outstanding group of American Indians and predict they will be acknowledged as such when their assignment is completed.

Public Law 92–318 is generally recognized as one of the most significant pieces of legislation dealing with Indian education that has ever been passed by a Congress of the United States. That thought may be expanded to all legislation dealing with education, because it provides for those being served to make decisions for which they believe is necessary to make a difference. It penetrates deeper than ever before by giving control at the local level to those people it intends to serve. It causes public school districts to develop a positive relationship to Indian communities. This is a new era in the lives of American Indians. Historically they have been shut out in planning programs, developing budgets, and sharing in the decisionmaking process which is so common to Anglo-communities. The benefits of legitimate involvement cannot be easily measured; however, if one witnesses the enthusiasm, knowledge, and determination of local Indian education committees, one cannot help but believe significant phenomenas are occurring. One of the greatest contributions a parent can make to his child is positive reinforcement. The encouragement, understanding, and assistance of these parents involved, will, in my judgment, prove to be an invaluable contribution to their child's educational success.

For example, in part A of title IV the Office of Education made grants to 854 school districts. The average size of parent's advisory committees is 10, and those funded represents approximately over 1,000 Indian people involved. It is estimated that another 400 applied, but were not funded, which would increase the numbers even more. The Office of Education estimates there are nearly 1,600 eligible school districts and should the vast majority succeed in getting funded there will be literally thousands of Indians parents involved in crucial decisions affecting the education of their children.

Parts B and C do not require advisory committes. However, nearly all of the 136 funded projects under B and 42 projects funded under C for fiscal year 1975 were granted to Indian tribes or Indian controlled organizations. One can easily observe from this brief description the involvement of Indian people locally has mutliplied 100-fold over the last 2 years.

All of title IV has as its major objective, that the programs must meet the special needs of Indian pople. Historicaly, millions of dollars have been appropriated by the Federal Government designed to educate Indian citizens. The latitude of State and local educational institutions was obviously too great, for they rarely considered the special education needs of Indian children. All proposals funded under this act addressed that question squarely and it is reassuring to know those needs were determined locally by parent advisory committees.

A significant number of proposals under B reflect great interest on the part of Indian communities to develop Indian programs centered around Indian history or culture. Under part A, school districts are developing curriculum materials reflective of the cultural characteristics of local Indian tribes. This cooperative venture between schools and community is meeting with great enthusiasm in both communities.

This process has begun to create more respect and knowledge on the part of non-Indians and creates a positive self-image on the part of the Indian children.

For the first time in the history of the Federal Government, Indian relationships under Public Law 92–318 does not restrict services going to nonresident Indians. Indian people, wherever they live, are now eligible to participate in programs designed to meet their needs.

For example, in Minnesota, approximately 3,500 Indian students were eligible to receive services under the Johnson-O'Malley Act; however, there are nearly 12,000 Indian students in the public schools of Minnesota of which 10,314 are now being served under title IV, part A. While data is scarce in other States, evidence suggests similar circumstances do prevail. Many States, especially in the eastern part of the country, still do not receive Johnson-O'Malley and title IV has had a tremendous impact on those communities.

There is a great deal of debate in regard to duplication of funds. While no accurate information is available, preliminary studies indicate this is not the case. It is our understanding a study currently undertaken between the Office of Education and Bureau of Indian Affairs is in progress. Unfortunately, the National Advisory Council has little if any input into this research effort. The National Advisory Council has held field hearings in New Mexico, Colorado, California, Louisiana, Alaska, and shortly we will be going to Oklahoma, and all of the testimony that we have had has been very, very positive.

Local Indian communities are certainly not without their problems, however, but the legislation has a potential to make significant impacts on the education of Indian citizens.

The problem most often mentioned is that local school districts refuse to accept the notion that parent advisory committees have authority and control over title IV programs. Where the majority of school districts have accepted this proposition, there are those who still refuse to accept it, claiming Federal intervention in local school district jurisdictions. However, Indian parent advisory committees are gaining more confidence and sophistication on this issue which has caused school districts to offer less and less resistance.

There is a need to press the point more effectively from the U.S. Office of Education, certainly from the Office of the Commissioner. Chief State school officers generally know very little about title IV, because they have little or no involvement in title IV operations. However, the Council feels that leadership in OE could be helpful with persuasive dialogs with chief State school officers who obviously play an important role with local school officials. The National Advisory Council is disappointed in that funding for fiscal 1974.

In an earlier statement I indicated there were a potential 1,600 school districts eligible for part A funds, however, only 845 were actually funded. Should the rate of school districts who receive funds in 1974–75 increase in 1975–76 as it did from 1972–73, it is estimated that per capita payment for each Indian student would drop from $112 to $75. Should inflation and school costwise as we have during the past year, one can only guess what impact these resources will have on local Indian communities.

It is very confusing to the Council why the administration never requested funds for fiscal 1975 for part A. The Office of Education has always argued that they are spending vast amounts of money for Indian education and that part A only duplicates what others can do. While those figures are generally impressive, they do not tell the correct story. For example, in fiscal 1974, the Office of Education rereported 117,500 Indian students received $42,288,398 under ESEA title I. Every title I administrator at the State and local educational institutional level will tell you that title I funds do not serve Indian children, rather, it serves children whose parents are in low-income categories and are deficient in the basic skills.

Furthermore, $17,567,233 of that figure was transferred to the Bureau of Indian Affairs who serves only approximately 30 percent of Indian school-age children.

Clearly title I does not direct its effort towards the special needs of Indian children. Another instance where the Office of Education reports substantial expenditures on Indian children comes from Public Law 874. The intent of Public Law 874 is to relieve the financial pressures of school districts who have substantial amounts of nontaxable lands. Indians have never benefited from this program as it clearly is not intended to provide resources to meet the special needs of Indian children.

For this same fiscal year, Public Law 874 and Public Law 815 were reported to provide $30,938,000 and $11,200,000 respectively, to Indian education.

The Office of Education alleges it spent in fiscal 1974, $140,432,423 for Indian education of which $84,377,398 alone came from these three programs. If one would examine carefully where the Office of Education claims to have expended resources for Indian education in all other categories, I would predict more than likely these figures would shrink even further.

It remains a great mystery to the Council that the HEW turns a deaf ear to our concerns and recommendations. The Nixon policy of self-determination seems to have little if any impact on the Office of Education. While it is pleasant, Mr. Chairman, to report on the impact of title IV and its great enthusiasm and recognition by Indian communities as being one of the greatest pieces of legislation, it is not a pleasant task to discuss the bad news which relates entirely with our relationship with the executive branch of the Federal Government, namely the Office of Education. Let me touch on a few of the most crucial problems.

As you know, Senator Kennedy, the executive branch of the Federal Government under the past U.S. President has never accepted this piece of legislation. As a matter of fact, they were under court order to appoint the Council, release and obligate funds before June 30, 1973. When we were finally appointed in May of 1972, and from that beginning our Council has engaged in an uphill struggle which to us at times seems insurmountable. Every member of the Council accepted their appointment in good faith with the belief we could contribute, meaningfully, on behalf of Indian education. We remain steadfast in that faith because we witness exciting developments in the Indian communities, but maintain we could accomplish more if the U.S. Office of Education would utilize our advice in a legitimate manner.

When the Council was first appointed, the former U.S. Commissioner of Education requested the Council to proceed carefully and slowly in submitting to him, as we are required by law, a list of nominees for the position of office of Deputy of Education within the Office of Education. While we were anxious to have this vital position filled immediately, we accepted Dr. Ottina's advice. The Council appointed a Search Committee to recruit candidates for the Deputy Commissioner position. Careful and well thought out criteria was established and all candidates were apprised of the Committee's intention to find candidates who possessed administrative skills, and the personal characteristics that were needed to deal with Indian communities and necessities. Our process began in July of 1973 and the Search Committee presented its recommendations in October of that same year. Within a matter of days Dr. Ottina was presented in person our list of nominees. The nominees in order of preference were Dr. William Demmert, Jr., Mr. Earl Barlow, and Mr. John Wade. Dr. Ottina indicated it was his desire to have that position filled by the end of calendar year 1973. After these interviews were completed Dr. Ottina informed the Council John Wade was no longer considered for the position. He also concluded that both Dr. Demmert and Mr. Barlow were acceptable to him and he would submit both names to the U.S. Civil Service Commission. He made that statement to me in January of 1974 and to the full Council in February of that same year. Incidentally, both of these finalists, very highly qualified individuals in our judgment, carried strong endorsement, from Indian tribes throughout the United States.

After repeated inquiries Dr. Ottina made the same statement to the Executive Committee in March of 1974. We learned later that all of Dr. Ottina's statements were inaccurate. In a letter to our executive director, Mr. Dwight Billedeaux, Joseph Damico of the U.S. Civil Service Commission reported: "In March 1974, the Department of Health, Education, and Welfare, submitted the name of Earl Barlow as their appointee for the Office of Indian Education. However, because of unclear reasons, HEW requested that the submission of Mr. Barlow be returned to them without action. This seems to be a contradiction of all information passed to the Council by one of the highest ranking education officials in the United States." Furthermore, the letter states: "In May of 1974 the agency requested we then consider the qualifications of Dr. William Demert."

On May 21, the day Dr. Ottina was to appear before a congressonal committee. He called Mr. Billedeaux and myself to inform us that Dr. Demert's nomination was rejected by the U.S. Civil Service Commission. At that time, we were unaware of the above-mentioned developments. The Damico's letter was received shortly afterwards when we learned the full story. Needless to say, our confidence in the Office of Education dropped to an all time low and remains so at this time. They rejected Dr. Demert on the basis of level and department training and experience. Where we might consider the latter characteristics an arguable point, it is difficult for the Council to question Dr. Demert's successful graduate record at Harvard University, one of the great institutions in the world. If one accepts the notion that training is commensurate with successful completion of undergraduate and graduate degrees, one must question rather seriously whether existing GS-18 appointments in Federal agencies can match the record of Dr. Demert.

While Civil Service has made its decision, we have argued that congressional intent authorizes the Office of Indian Education to set certain criteria in the search process, because the law specifically says the Office will be headed by a Deputy Commissioner of Indian Education who shall be appointed by the Commissioner of Education from a list of nominees submitted by the National Advisory Council on Indian Education.

The difficulty at this time rests with our inability to meet with the recently appointed Commissioner of Education, Dr. Ted Bell. At our last meeting in July of 1974, we requested legal assistance from the Native American Indian Rights Fund to seek a meeting with Commissioner Bell on August 21, 1974. A representative from the Commissioner's office suggested the Commissioner would meet with us September 13. This long delay in responding to a meeting request with the Commissioner suggests to us there will be little change in behavior attitude on the part of the Office of Education. I might add that a date has been confirmed today that we will be meeting with Commissioner Bell on September 17 at 11 a.m.

Senator KENNEDY. Well, if you want to invite some of the members of this committee—I don't know what my particular program is—I would be more than glad to come, too. It is absolutely outrageous, a complete violation of our intention, and it is absolutely inexcusable. So if we are invited—you can make whatever decision you want to—we would be glad to come to express our feeling about the way they have handled this.

Dr. ANTELL. A simple question seems in order.

Does Indian self-determination have any meaning at all? It is just another possible cliche for people who have been duped beyond reason. We have endeavored to pursue this even more vigorously. We feel it cannot be disposed of by the Civil Service Commission. We will continue to argue we have a vital role and continue to make efforts that their action be held accountable.

One might argue that title IV is successful, which would suggest the existing leaders in the Office of Indian Education are satisfactory. We certainly don't want to intimate that program managers of title IV are not performing their tasks well. On the contrary, they are Indians and doing an excellent job. However, the Commissioner and his assistants and key policymakers are not Indians. Furthermore, it is this echelon of administrators who tend to discount the importance of the National Advisory Council on Indian Education. We are busy developing future Indian education policy, making key decisions without meaningful relationships with our Council.

Many of these people are experienced bureaucrats and will always find reasons to support their actions. While we recognize the Federal Government can be an awesome place to perform, all we ask is that the U.S. Office of Education solicit from us the advice and assistance they are required by law to consider.

Recent decisions from the Office of Budget and Management have further restricted the National Advisory Council. Our staff are now under Civil Service and assigned as staff members to the Office of Education. It seems they have several masters. Who are they accountable to? The Council? The Office of Education? Or who? Furthermore, our Council is subject to control by the Office of Education. The budget allocated for our Council is now within the agency, and we cannot expend those resources without going through several stages which could take several weeks. They make final decisions whether our Council will meet, where we will meet, and a whole host of other decisions which we feel we are capable of making. It seems to us to be another blatant attempt to control the Council and its activities.

Hopefully the Congress will examine this policy and restore our autonomy or we will not be able to perform legitimately our responsibilities. This decision again seems to be in contradiction to the intent of Congress, who wanted Indians to have some control over programs affecting the educational lives of their children.

Invitations to witness the Presidential signing of H.R. 69, August 21, were sent to many chairmen of national advisory councils. However, our council was not extended an invitation. Because I was in Washington preparing this testimony, I learned of this development. I protested to the Commissioner's office and a half hour before the President was scheduled to sign the bill a ticket was given to me. In inquiring whether the Bureau of Indian Education in OE was also invited, I learned that two non-Indians had been given passes. Several well deserving Indians in that office were back at their stations performing their duties.

This could be regarded as petty. Perhaps it is. But it is one of the numerous happenings which tends to grow in size and you begin to wonder will Indians ever be afforded any kind of decency and equality.

Mr. Chairman, these are only a few examples of the difficulties our council has encountered with the Office of Education. It would not be a very difficult task spending the rest of the day expounding on other problems. But hopefully these two thoughts will alert the U.S. Senate and Congress as a whole that title IV of this legislation passed in 1972 and amended in 1974 hold great potential and have been met with great enthusiasm by Indian people throughout the United States. We feel we can make this even more effective if the U.S. Office of Education would extend themselves perhaps another step or two in making our responsibilities that much easier as members of the National Advisory Council.

Mr. Chairman, this concludes my statement on behalf of the Council.

We want to give you sincere, special thanks for this opportunity to present these vital concerns.

Senator KENNEDY. Well, thank you very much, Dr. Antell, it is a splendid statement and a very helpful one.

We, of course, are very appreciative about your kind remarks about the members of this subcommittee, Senator Mondale and others.

As you are aware, in the Education Bill, which the President signed yesterday, we have some new programs in terms of training for Indians, which hopefully will be implemented in a more successful way than some of those you have discussed this morning. So we will continue to be interested in this issue.

Do you feel the funding of the Advisory Council is consistent with the mandate that you have under the legislation itself? Are you permitted to function in an independent way, as Congress intended? What can you tell us?

Dr. ANTELL. Unfortunately, Senator Kennedy, the Council is really under the control of the Office of Education, and just to hold a meeting, for example, it takes us 20 days to process that, and now that all the expenditures of the Council, it will probably be months before our members are reimbursed for their per diems, their fees and so forth. The sites, we want to get out in the field as much as we can. We have to get the sites approved. Our executive director, I would guess, spends 30 percent of his time just facilitating the Office of Education's requests for information, just for us to function. So in answer to your question, we are not in any way autonomous, independent, and the more we speak out the more difficult it becomes for us to operate.

Senator KENNEDY. The longer it takes to get those approvals?

Dr. ANTELL. That is correct.

Senator KENNEDY. Do you have specific recommendations on how that can be worked out?

Dr. ANTELL. Well, one of the things, Senator Kennedy, we are not totally clear on this, but we have been told that there is a potential for the bill the President signed yesterday in advisory councils. Many times it is not clear to the Office of Education whether or not we are Presidential council or whether we are something else, and that has to do with our reporting procedures. Whereas, we have been appointed by the President, we report directly to the Commissioner of Education, and that carries, evidently, a lower status in terms of autonomy, and if this new bill that was signed yesterday would clarify that we may be designated as a Presidential Council which would relieve a great deal of that bureaucratic tape that we have to go through.

Senator **Kennedy**. Do you submit your annual report to the President as well as to the Congress?

Dr. **Antell**. Directly to the Congress. I believe it may have to go through the Commissioner of Education.

Mr. **Skye**. Mr. Chairman, I work for the tribes in South Dakota.

Under the administrative practices, as far as Office of Education is concerned, I think they have violated everything that is in the act, plus every procedure that we have set up as far as advisory council staff is concerned.

I also think that they have violated the legislative guarantees that we have under the act. We have considered a lawsuit on the Office of Education.

But one of the worst things, I hate to become as a rubber stamp person and this I feel is what the Office of Education is making us, presently a rubber stamp organization.

There are individuals within the Office of Education that tend to orchestrate our activities and make us feel that we are puppets in what we are doing. I also feel that we must have more Senators, Congressmen supporting our actions. We need those legislative guarantees carried out, otherwise we just as well resign as far as Advisory Council members. We are not carrying out the intent of the act, and I don't think OEO is, either.

Senator **Kennedy**. Obviously we would like to work with you in trying to see if we can't remedy that.

In the December hearing we heard testimony that the USOE did not single out any minority people in its accounting system. Does this relate to that?

Dr. **Antell**. I am not sure I am, but in terms of responding to the critics who suggest the Office of Education does not provide funds for Indian education, we have come out with statements we have spent up to $140 million on Indian education, but as I pointed out in testimony, that is very misleading, because it is very difficult to see if that has had an impact and what kind of accounting they hold, the local school district, whether or not Indian school children are indeed succeeding. Many of the others are categorical programs and are very competitive.

Looking over that document of $140 million, one comes to the conclusion they are making an effort, but I don't believe they have an accurate way of determining how successful they are. They lump them into all minorities, the desegregation, and they include Indians, so that is to be examined very carefully before one can see how they are holding people accountable for how they are spending the money for those programs.

Senator **Kennedy**. What kind of evaluation do they have for their education programs?

Dr. **Antell**. They had pretty much made a commitment to CPI to do some monitoring and technical assistance and assessment of title IV programs. Unfortunately we haven't had much input into that and we are just advised that that monitoring and evaluation is going on and that contract has been extended for another year and we hope sometime within the next year they will report to us their findings. I would be very cautious about any evaluation of an educational program at this time, and I would only say that, Senator, because most experts say that to properly evaluate an educational program one should be thinking between 3 to 5 years, and what we are concerned about is because all these programs are so new that people jump to conclusions too easily, and it would be nice for the Office of Education to say that these programs are failing based on too early an assessment of it.

Senator Kennedy. Don't you think you ought to be participating in that evaluation?

Mr. Skye. Yes, we do. But, Mr. Chairman, the advisory council was not aware of a contract with the CPI until later when I went and received a copy. That is not to say that we utilized any underhanded methods, but we never saw the copy until the contract was signed and let.

Dr. Antell. We definitely feel, Senator, that we should be involved in that process. We have consistently requested our staff to contact the Office of Education and the contract board to see if we can't work with that organization. There has been a lot of criticism on the instruments used, raised by the members of our council and requested that a member or two of our council be involved in that.

Senator Kennedy. Now, this really points up another part of the problem, the vacancy in the Deputy Commissioner slot, doesn't it?

Dr. Antell. That is right. We think that is vital.

Another example, the amendments signed into law yesterday, calls for teacher training. Prior to title IV there were teacher training programs we were conducting in the field, being supported by the BIA and the OE. When title IV came into existence they shifted that responsibility to title IV. Well, we feel if we had a deputy who was really for us they would not be shifting programs, adult education, right to read, and a whole host of other categorical programs into title IV. We feel very strongly that we are as eligible as they are under these programs as title IV, but we don't have the advocacy at the very top to make that assurance at that level.

Senator Kennedy. Well, I think it was very clear in the legislative history that title IV was supposed to be in addition to, rather in lieu of, existing programs. That is obviously another example of the need to fill the Deputy Commissioner slot.

What kind of coordination is there between the BIA educational programs and OE?

Dr. Antell. Well, there again, Senator, we must report that there is this ongoing study of alleged duplication of Johnson-O'Malley title IV funds. At the request of Congressman Hansen that study is being conducted by the BIA and the OE. Again, our council was not involved in that.

Senator Kennedy. You are not involved in that?

Dr. Antell. No, we are not. Unfortunately we feel there must be counseling with our staff and the BIA. Title I transfers substantial amounts of money to the BIA. Also, one of the things I didn't mention that we are very concerned about is the fact that the appropriations for title IV come from the Department of Interior's budget, which we were very, very concerned about from the very beginning, that we felt this was another way of letting the Office of Education off the hook, that we felt they should determine some priorities and build that into their budget rather than taking it from Interior's budget.

So there are obviously many areas of coordination, and we have raised the question with the legal people from HEW whether or not we have any responsibilities to the Bureau of Indian Affairs. And it appears that we have no responsibilities along those lines other than perhaps moral ones.

Senator **KENNEDY**. What I wish you would do for us is develop a bill of particulars which we could take to the Commissioner of Education. If you could have that for us after the recess, then along with Senator Mondale and some of the other leaders, we will try to go over these points, point-by-point, with the Commissioner. If you could develop some of these points for us, we would appreciate that very much.

Dr. **ANTELL**. We would be delighted to do that.

Senator **KENNEDY**. I want to thank you very much for these comments. Unfortunately many of the observations that you have made indicate that, frequently, the administration of Indian education programs has been contrary to the whole legislative intent, and we certainly are going to press these points with the officials responsible. This isn't the first time we have heard many of these criticisms and it probably will not be the last, but we want to continue to exercise our judgment and influence. This subcommittee will continue oversight of BIA and OE practices and procedures in order to assure quality education for Indians in this country, a cause to which we remain deeply committed.

Mr. **SKYE**. Mr. Chairman, I have one more thing. You know, along the lines of administration, basically involved in administration, the Civil Service Commission constantly says and relates back to Indian people, and I don't know whether it is everybody else, but we are deeply concerned that between the area of a senior-rated level individual and schedule C, you know, a lot of times a person rating down on the midlevel can obtain a job in the schedule C but can't become qualified for senior level rating and civil service. I am wondering if this is another area you could make your comments on or direct yourself to. We have a lot of qualified Indian people that have educational degrees and other degrees, but they don't know the civil service background; how to get into the civil service; what to do about it. They don't even realize they have to contact Salt Lake City to be involved in the midlevel rating. It seems to me that it is quite political when they want someone bad enough, a white man to be the director of some secretary level position in Washington, and he is not even qualified to be down in the midlevel but he becomes a secretary of some type. So we have a lot of Indian people that are qualified and I don't think anybody has done a good enough recruiting program.

Senator **KENNEDY**. I agree.

Before concluding, you were here when I asked Mr. Sockey about a number of Indian controlled schools. What comment would you make about the slowness of this? What are the reasons for it?

Mr. **BILLEDEAUX**. May I speak up?

I have worked in the field and helped some of these schools get on an independent contract. One thing is that they really don't understand how to go about this. The process is so slow. Let's take Busby, Mont. I worked for 4 years to finalize an independent school. The Indian people are more than anxious to become independent. I don't think the survey Mr. Sockey has done will give you the information as complete. But it will be quite difficult and it will take a long time.

Mr. **Skye.** Mr. Chairman, I do work for the tribes, and one of the things that they are deathly afraid of is by contracting there is some degree of termination involved. It seems as though the Government is trying to terminate the responsibilities which are basically involved in the treaties, and they would like the Bureau to do one thing, a better job, two, not to express the intent of forcing contract on them. If they want a contract this should be their own consent and elected through their own tribal councils. I don't think the record of the Bureau should be held against them as to whether they are doing a good job or a bad job. But I do think the tribes ought to have their own express intent of what they want to do.

I would try to respond by giving a couple of examples of my own experiences. After the President issued his policy statement in 1970 he did create provisions for a special subcommittee that was assigned to the National Council of Indian Opportunity. I must say, that I had the unfortunate experience of serving as the chairman of that subcommittee. We were charged by the President to do a number of things, provided technical assistance. Help people contract, look at Johnson-O'Malley programs and make some assessment of this education under that administration. Unfortunately, he didn't give us any money to do this. So we tin-cupped our way all the way through. This great group finalized their task in 1972. In that report we were very critical of the BIA and the Government to conduct what the President had wanted them to do and it was a very critical report and we have never had a response to it. I think if you would be interested, your staff could shift that information out and tell you the percentages that we found to be moving in contracting or some of the concerns they had, and they are concerned about termination here, but I think it is a matter of how this is presented on the part of the staff. I think if one believes in contracting it can become a simple matter. If one does not believe in it himself, it becomes a very difficult task.

The second example I can give, I am serving on the Board of Regents at the American Indian Arts. As you recall, I recommended that that institute become a 4-year institute. This again has been a terribly frustrating experience. We have been trying to contract just open contract negotiations. Unfortunately this institute is under the Albuquerque office. We can't get any responses there or in Washington. We had Dr. Sockey with us, I believe sometime in late July who promised a response by August 9. The response didn't come. So we have taken the position that there is no way we want to continue to deal with the Bureau of Indian Affairs. We will go directly to Congress or to the courts.

So while I was impressed with the statements earlier, I don't find any evidence that is being carried out. We want to contract that institute. That school starts next week with no clear-cut philosophical or practical statement to the Commissioner's office. Those people have been working diligently in trying to get something moving for this year and projecting into a 2-year institute and hopefully 4-year, and they get the runaround between Albuquerque and the central office in Washington. I hope that would be a matter of inquiry on the part of Congress.

Senator **Kennedy**. It certainly will be.

Mr. **Skye**. Mr. Chairman, I have two points to make and then I will be quiet.

One of them is that under the contract there is one thing that the tribes do fear and that is the fact that they are not covered under the liability. If someone sues them, then they lose the money. A lot of your bureaucrats, they have a safe omnibus laws, but that doesn't protect the tribes. I think that has to be included in liability insurance.

Another thing under Johnson-O'Malley, tribes have to form State corporations or a tribal corporation in order to contract. I don't think this should be necessary. The tribes should be able to contract directly because they are a solvent and autonomous nation that has just as much right as a State or Federal Government.

Senator **Kennedy**. Thank you very much.

[Whereupon, at 12:25 p.m., the subcommittee recessed subject to the call of the Chair.]

# APPENDIX

## INDIAN AFFAIRS MANUAL, VOL VI, COMMUNITY SERVICES, PART II, EDUCATION

### CHAPTER 1—ADMINISTRATIVE ORGANIZATION, TABLE OF CONTENTS

*Section 101. General Information Relative to Program*
.01 Objectives.
.02 Authority.
.03 Policy.

*Section 102. Functions and Relationships*
.01 Central Office.
.02 Area Administration.
.03 Superintendent, Non-reseravtion Boarding School.
.04 Reservation Superintendents.

### *Section 101. General Information Relative to Program*

.01 *Objectives.* The basic educational objective of the Bureau of Indian Affairs is to assure adequate educational opportunities for all Indian children of one-fourth or more degree of Indian blood within the continental United States and Alaska. This basic objective includes the following:

A. To obtain school facilities for eligible Indian children not now in school.

(1) To increase enrollment of children in available public and Federal schools.

(2) To secure construction of needed school plants through applicable laws and appropriations. For example, Public Law 815, 81st Cong. (64 Stat. 967) as amended August 8, 1953 (67 Stat. 522), and Navajo-Hopi Rehabilitation Act, 81st Cong. (64 Stat. 44).

(3) To provide temporary facilities to meet emergency situations.

(4) To initiate other less traditional arrangements for providing educational opportunities for children in isolated family units.

B. To carry out an effectve program for children in Federal schools designed to prepare Indians for successful living.

(1) To develop in children basic academic skills.

(2) To give children an understanding of the social and economic world and to help them secure improved standards of living.

(3) To develop understandings and practices which will assure optimum health.

(4) To provide vocational training which will qualify youth for gainful employment.

(5) To provide adequate training for students desiring to enter special schools and institutions of higher learning.

(6) To make available financial aid and other assistance to qualified students seeking advanced training.

(7) To provide guides for planning and conducting local school programs based on the needs of children.

(8) To develop materials and teaching aids.

(9) To provide opportunities for professional growth of employees through in-service training, conferences, seminars, workshops, meetings, advanced courses.

(10) To provide for research and surveys.

(11) To provide technical consultation in guidance, health education, home living, and other fields.

C. To secure for all Indian children the educational opportunities provided for other citizens through our system of public education.

(1) To transfer the operation of Federal schools and school plants to public school districts through orderly procedure. (a) To secure the active participation of local Indians, employees, and public school officials and patrons in all phases of the transfer. (b) To propose transfers to local school districts title to school lands and property.

(2) To assure adequate educational programs in public schools enrolling Indian children.

(3) To provide financial aid to qualifying public schools.

D. To develop on the part of Indian groups, State and local school officials recognition and acceptance of their full responsibilities for the education of Indians.

(1) To furnish adequate information concerning responsibilities and pertinent facts needed for determining decisions.

(2) To cooperate with other groups in formulating principles underlying responsibilities.

E. To retain the valuable elements of Indian life and to strengthen the pride of Indian groups and the recognition by non-Indians as to the contribution of the Indian heritage to the national life.

(1) To include information regarding the various Indian cultures in the school curriculum.

(2) To interpret Indian cultural values to non-Indian groups.

F. To secure regular school attendance of all Indian children until they graduate.

(1) To cooperate with parent-teacher associations and local organizations in securing acceptance by Indians of responibility for regular attendance.

(2) To cooperate with officials in securing enforcement of applicable attendance laws when other means fail.

G. To appraise periodically the need for boarding schools.

(1) To accept applicants for boarding schools on the basis of established criteria and admit only those for whom adequate provision cannot otherwise be made.

(2) To close boarding schools which established criteria indicate are no longer needed.

.02 *Authority*. Administration of the Indian School Service is vested in the Commissioner of Indian Affairs, subject to the direction of the Secretary of the Interior. (Act 35 Stat. 72; 25 U.S.C. 295)

.03 *Policy*. It shall be the policy of the Bureau of Indian Affairs to accomplish these objectives either directly or by arrangements with States, public or mission schools. Wherever adequate school facilities are available, Indian children shall be enrolled in the local public schools. Where such facilities are not available, Indian children may be enrolled in Federal Indian schools.

### *Section 102. Functions and Relationships*

.01 *Central Office*. The Assistant Commissioner for Community Services is Chief of the Division of Community Services and is responsible for the general direction, coordination, and control of the school educational activities of the Bureau.

A. *Education Staff*. The Branch of Education is responsible for staff assistance to the Assistant Commissioner for Community Services on school educational matters.

(1) *Education Specialists*. Education Specialists in the fields of (1) home economics education, (2) boys' vocations (agriculture and livestock), (3) boys' vocations (mechanical and industrial), (4) health education, (5) secondary education, (6) research and education measurements, (7) guidance and higher education, and (8) in-service training of personnel, are included in the staff of the Central Office. Periodical visits to the field by these specialists will be directed by the Assistant Commissioner for Community Services and the Chief of the Assistant Commissioner for Community Services and the Chief of the Branch of Education. Requests from Area Directors for the assistance of an Education Specialist either for work at the Area Office or at reservation or nonreservation schools will be complied with wherever possible. These specialists will develop and prepare service-wide curricula and program guides in various fields of education which are best adapted to meet the educational needs of the Indians. At the Area and Agency and local facility levels, they will advise Area Educationists,

Superintendents, Principals and Department Heads in the preparation and development of suitable curricula patterned after the service-wide guides but adapted to the local facility resources and needs of the Indians. They also will evaluate the education programs at the Area and Agency and local facility levels to determine whether or not they conform to the over-all objectives and policies of the Bureau. Recommendations for improvement in the conduct of school programs should be reported to the Agency or Boarding School Superintendent and to the Area Director, with a copy to the Central Office.

The Education Specialists are not vested with authority to issue instructions. Where unresolved differences of opinion exist, both sides should be presented to the Area Director for final decision. If the Area Director is unable to make a decision with which the specialist can agree, the problem should be presented to the Central Office.

.02 *Area Administration.* In line with policy directives issued from the Central Office, the responsibility for education administration at the area level shall be vested in the Area Director, who shall discharge this responsibility with the assistance of a staff which may consist of an Area Educationist with over-all administrative experience, and such Education Specialists in the fields of elementary education, home economics, health education etc., as may be provided within available funds.

A. *Area Educationists.* Area Educationists shall collaborate with Superintendents in formulating and inaugurating education programs, based upon the resources of the reservations and adapted to the needs of the Indian children who are enrolled in the boarding and day schools; evaluate and check on conduct of reservation programs to determine whether or not they conform to the over-all objectives and policies of the Bureau; develop and maintain good relationships with State and public school authorities; appraise the work of education personnel and recommend modification in procedures to increase efficiency; and assist Superintendents and their staffs in the preparation of plans and budget estimates for the effective operation of the schools. They also shall review and appraise recommendations made to the Area Office by Agency Superintendents, Boarding School Superintendents or Reservation Principals which may concern changes in education policy or program and specify those which they believe should be referred to the Central Office for decision.

(1) *Area Education Specialists.* Area Education Specialists are assigned to the staff of the Area Educationist and shall furnish such specialized advice, supervision and guidance to the Reservation Superintendents and Principals as shall be needed or requested. They shall prepare with Principals, Department Heads and teachers, curricula and program guides which are adapted to local conditions at Indian boarding and day schools and write up in manual form sources of instructional materials, visual aids, new techniques and education procedures, and demonstrate their use to Principals, Department Heads and teachers.

They will collaborate with Principals in integrating each phase of the program with the over-all school program to conform to policies and programs of the Bureau. They will also assist in preparing reports covering all major activities and make recommendations for the improvement of boarding and day school programs.

.03 *Superintendent, Non-reservation Boarding School.* Non-reservation Indian boarding schools shall be under the direction of the Area Director. Under the direction of the Area Director, Superintendents shall be responsible for the over-all education program of the schools. They shall exercise leadership in the planning and development of a statement of education philosophy to serve as an outline of broad objectives for curriculum planning; give professional leadership to the entire staff, and give technical assistance to the development of the details of curricula, course materials and teaching aids. They shall be responsible for the supervision, training and management of personnel; for the effective operation of buildings, grounds, utilities and facilities; for the administration of an effective health, recreation and safety program; for the administration of housing, feeding and transportation needs; for the conduct of a student guidance program and an effective public relations program; and for the development of a high level of morale both within the staff and the student body.

.04 *Reservation Superintendents.* The Agency Superintendent is in administrative charge of all regular activities within his jurisdiction including education. (See Section 102.02 A. of this Chapter.)

A. *Plan.* The reservation administrative personnel in education shall prepare each year a plan of activities in light of reservation needs in conformity with programs, policies and standards of the Bureau. The plan, when approved by the Agency Superintendent, shall become the education program of the reservation. Copies of these plans should be forwarded to the Area Director and to the Central Office.

B. *Reservation Principals.* Reservation Principals will be assigned to the Superintendents' staffs at the larger reservations. Under the direction of the Agency Superintendent, they shall be responsible for the training and management of education personnel; for the administration of housing, feeding and transportation needs; for the requisition and economical use of supplies and equipment; for the directing of a safety program for the schools; for the proper and most effectual use of school buildings, grounds, utilities and facilities; for the conducting of a reservation-wide guidance program for the students and for the rendering of technical assistance in the development of details of curricula, course materials and teaching aids. They shall review teaching outlines and methods to insure their compliance with over-all philosophy of education; hold staff conferences for the purpose of developing general education policies and sound procedures; promote a high level of morale both within the staff and among the students; and cooperate with County Superintendents, public school authorities, probation officers and welfare agencies who are interested in the education and the general welfare of Indian youth. They also shall be responsible for coordinating the work of the Education Branch with that of the other branches in carrying out the reservation program.

(1) *Principals (Reservation Boarding Schools).* Principals of reservation boarding schools shall be responsible for the over-all administration of the schools; for the implementation of the curricula and philosophy of education, and the standards to be maintained; for the grade placement of new pupils and the promotional status of all pupils; and for the teacher work loads and class schedules. They shall give their faculties professional leadership and promote a high level of morale both within the staffs and among the students. They shall be responsible for the security and the most effective and proper use of school buildings, grounds, utilities and facilities; for the full-time care of the pupils; and for the providing of clean, wholesome living quarters and a homelike atmosphere for both the staff and students. They shall develop and put into effect a program of personal counseling, along with academic and vocational guidance for the students enrolled in the school. They shall maintain good relationships with public school authorities, welfare workers and the general public. They also shall maintain school records, reports and correspondence; prepare efficiency ratings for all personnel under their supervision; and make recommendations to their superiors for the improvement of the education program.

(2) *Principals (Non-reservation Boarding Schools).* The duties of Principals of non-reservation boarding schools shall be the same as those for Principals of reservation boarding schools with one exception. They shall be responsible for supervising the instructional programs in the schools but not for the over-all administration of the schools.

(3) *Principals (Day Schools).* Principals of day schools shall perform the same duties as the Principals of boarding schools with one obvious exception that they shall not be responsible for the full-time care of the pupils.

(4) *Education Specialists.* Specialists in elementary education may be assigned to the staff of the Reservation Principals on some of the larger reservations. They shall be responsible for developing with Principals and teachers curricula and program guides within their special fields which are organized and adapted to meet local conditions. They shall survey, evaluate and write up in manual form sources of instructional materials, visual aids, new techniques and educational procedures, and demonstrate their use to the Principals and teachers; work with Principals in integrating the elementary program with the over-all school program to conform to policies and programs of the Bureau; train and orient new teachers for their jobs in the Indian Service; prepare reports covering all major activities; and make recommendations for improvement in boarding and day school programs.

(5) *Department Heads.* Department Heads in academic subjects, agriculture, guidance, home economics and vocational subjects will, as need arises and funds are available, be assigned to the large reservation and non-reservation boarding schools. They shall be responsible for organizing and administering programs in

their respective fields; for supervising, instructing and assisting subordinates in utilizing approved techniques, methods and procedures; for laying out work assignments; and for coordinating the activities of the respective departments with the total school program. They shall recommend revisions or modifications of the programs in light of new information, techniques and procedures in order that the programs will be abreast of the times and in keeping with the needs of the students. They shall maintain student records; prepare necessary reports; report on the efficiency of the employees under their supervision; and maintain records and controls over the equipment and supplies. They also shall be responsible for developing and carrying out comprehensive guidance programs designed to prepare the students for the social and economic conditions with which they will be confronted after graduation.

(6) *Teacher-advisers (Boys and Girls)*. Teacher-advisers may be assigned to boarding schools. They shall be responsible for developing and carrying out a broad program of student guidance and counseling under the general supervision of a Department Head (guidance) or Principal. They shall plan and direct the home-life activities of the students in the dormitories and maintain close supervision over all out of school activities. They shall provide guidance and instructions in adjustment to boarding school life, school programs, and school policies; in care of personal and government property; in courtesy and proper respect for others; in responsibilities at home, in school and in student government; in behavior, standards of dress, problems of personal hygiene, and personal appearance; in use of leisure time; and in the general conduct to be observed both on and off the campus. They shall maintain close relationship with all members of the education staff in order to maintain good discipline and a high level of morale among the students. In order to be successful in their work they must gain the confidence and respect of the students under their guidance and supervision.

(7) *Guidance Committee.* It shall be the responsibility of the school to prepare the students for self-support. It shall also be the responsibility of the school to investigate employment possibilities for students in the communities adjacent to the school and to secure placement for those desiring such assistance as they become eligible. This assumes the creation of a guidance committee which will be under the chairmanship of one of the advisers or other competent person and will be composed of interested personnel, especially vocational instructors for both boys and girls, and one or more competent Indians familiar with home conditions of the students. It shall be the duty of this committee to study the capacities, abilities, and resources of the students, through background, family relationship, and the possibility of economic self-sufficiency within the home community, and to use this information as a basis for his educational and vocational guidance. (See Section 403. of this Part) Such committees shall also advise with regard to the granting of educational loans.

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## MEMORANDUM OF UNDERSTANDING BETWEEN BUREAU OF INDIAN AFFAIRS (DEPARTMENT OF THE INTERIOR) AND OFFICE OF EDUCATION (DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE) RELATIVE TO TITLE I, ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

### GENERAL

Title I of the Elementary and Secondary Education Act of 1965 authorized financial assistance to meet the special educational needs of educationally deprived Indian children in BIA (Department of the Interior) schools and out-of-State Indian children being educated in elementary and secondary schools of local educational agencies under contract to the Department of the Interior.

### POLICIES

#### *I. BIA responsibilities*

1. The program will be conducted through discrete projects developed and approved in accordance with the legislation, regulations, and criteria issued pursuant thereto by the U.S. Commissioner of Education. All Title I funds must be spent in accordance with such approved projects or project amendments.

2. All Title I project applications and project amendments must be submitted by BIA school or agency administration to the Commissioner of Indian Affairs for approval or disapproval. Headquarters (Central Office) and Area Office projects will be limited to those prescribed in sections IV–1, IV–2 and IV–4 of this memorandum except as mutually agreed to by BIA and OE.

3. A project application will be considered for approval by the Commissioner of Indian Affairs only if it contains but is not limited to the following:

(a) Identification of the groups that were involved in analyzing needs and planning the program and a description of the nature and extent of their involvement, including meetings with Indian parents for their consultation and assignment of priorities.

(b) An analysis of the needs of the children, involving appropriate objective educational measurements, indicating the source of information and major conclusions concerning the incidence and severity of needs.

(c) All data required by the Title I regulations on parental involvement.

(d) Statement of performance objectives.

(e) Description of proposed program to meet the performance objectives.

(f) Description of inservice training to be provided including joint training activities for education aides and professional staff members.

(g) Description of program to meet the special education needs of Indian students attending private schools within the jurisdictional area of the applying agency.

(h) Specific provision, where applicable, for the participation of parents in the programs designed to meet the needs of the children in order to build meaningful relationships between the parents and the school.

(i) Specific provision where applicable, for an Indian person to act as liaison between non-English speaking local Indian communities, school boards and the school; to hold community seminars on Title I, disseminate information and to establish communication between school professional staff and local Indian communities through PTA type meetings.

(j) Description of evaluation methods.

(k) Description of dissemination activities.

(l) Budget, including an explanation of items of expenditures and appropriate justification of all items of equipment, equipment inventory, and construction.

4. BIA will utilize the results of annual evaluations to improve subsequent years' programs and will assure that development of current year projects reflect the influence of latest available evaluation results.

5. BIA school or agency administration will be responsible for implementing the program.

6. BIA Central Office will furnish the Office of Education with a copy of each approved project and each appproved project amendment within five (5) days of approval. It will also provide OE with copies of the evaluation report and such statistical and other reports as may be required by the Commissioner of Education.

### *II. Title I parent councils*

1. BIA will be responsible for the establishment of the parent councils as required by Title I regulations and their meaningful involvement in the planning, development, and operation of Title I programs. Furthermore, BIA will adhere to the Title I regulations with regard to parent councils, and all such regulations are made a part of this agreement. The travel and per diem expenses of parent representatives on Title I parent councils for off-reservation boarding schools may be approved as part of the project application.

### *III. Out-of-State Indian children in public schools*

The following policies will govern payments to local education agencies that provide services to out-of-State Indian children under contract with BIA.

1. BIA will make Title I funds available annually to local education agencies under contract for the education of out-of-State Indian children. The amount to be made available shall be consistent with the amount per child made available to the State (in which the agency is located) by the Commissioner of Education in accordance with the formula in the statute.

2. BIA will establish a count of out-of-State children in BIA dormitories and attending public school as of February 1, determine amounts to be made available to the affected local education agencies, and notify simultaneously, the Office of Education and the Title I Coordinators in the cognizant State education agency of these amounts as soon as possible for the succeeding fiscal year.

3. State Departments of Education will have authority to negotiate project revisions, approve projects and/or project amendments funded through this procedure. A copy of the approved project application will be forwarded to BIA and the U.S. Office of Education by the State education agency.

4. Following receipt of the State approved project application or amendment thereto, BIA will make payments to the local education agency through its existing contractual authority.

5. In the event any local education agency chooses not to participate, the unused funds will become available for use in Title I projects in BIA schools.

### *IV. BIA administration*

1. BIA will exercise strong leadership and administrative direction of the Title I program. The administrative arrangements for staffing, organization and functions to be performed will be set forth in a special project, together with a budget, to be approved by the Office of Education. This special project will include a description of all functions to be performed in the administration of the Title I program.

2. BIA will make provision for training sessions for the members of Title I parent councils, either by contract or in cooperation with the local school.

3. BIA will make the following documents available for inspection or, upon request and at reasonable cost, (not to exceed the additional cost incurred to BIA) provide an interested party with a copy of the documents. In no event will members of parent councils be charged for any Title I documents.

(a) Current and past Title I applications.

(b) All documents and records (except those which relate to the performance of named students and teachers) relating to the planning, development, operation, and evaluation of Title I programs.

(c) Other documents and records, whether prepared for Title I specifically or not (except as exempted in item b), containing information necessary for comprehensive planning or evaluation of the compensatory education program.

4. BIA Central Office will conduct or contract for a cross-section evaluation of all BIA Title I program or agency projects.

5. BIA will be responsible for monitoring BIA Title I programs yearly.

6. BIA will be responsible for making a maximum effort to combine its Follow Through Projects with special activities for the same pupils under Title I in accordance with the regulations and guidelines of the Follow Through program.

7. BIA will investigate and resolve complaints related to the Title I program. Within five (5) days of receiving a complaint, the Title I office will send a copy of the complaint to OE. BIA will notify OE of the actions taken with respect to the resolution of such complaint on a timely basis.

8. BIA will be responsible for implementing any changes identified by the OE through program reviews as necessary to bring the program into compliance with the statute and the regulations.

9. As a part of its dissemination program, BIA will provide a copy of this document to each BIA local school administrator and each local parent council.

### *V. OE responsibilities*

1. The Office of Education annually will review BIA program administration and implementation to determine compliance and effectiveness of Title I programs and will report its findings to BIA.

2. BIA, in the first instance, is responsible for the investigation and resolution of all complaints. If a complainant is dissatisfied with the final action taken by BIA he may present his complaint to the U.S. Commissioner of Education. The findings of fact by the U.S. Commissioner of Education with regard to such complaints shall be conclusive.

3. OE will provide technical assistance to the Bureau of Indian Affairs in the administration of the Title I program.

4. DHEW General Counsel's office will interpret and clarify Title I regulations and requirements for the Bureau of Indian Affairs.

5. The BIA Title I program will be audited by the Department of the Interior.

### *VI. General*

1. OE will transfer to BIA the amounts available on a quarterly basis.

2. This memorandum will be reviewed annually and mutually agreeable changes will be made on the basis of legislative changes and of the experience gained in the program.

3. This memorandum will be effective and implemented immediately upon its approval by OE and BIA.

Approved:

S. P. Marland, Jr.,
*U.S. Commissioner of Education.*
Louis R. Bruce,
*Commissioner of Indian Affairs.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF EDUCATION,
*Washington, D.C., April 29, 1971.*

MR. JAMES E. HAWKINS,
*Director of Education Programs, U.S. Department of the Interior, Bureau of Indian Affairs, Washington, D.C.*

DEAR MR. HAWKINS: Your letter of April 13, accurately reflects the concepts discussed between our staffs on April 6, regarding the Title I responsibilities of Central and Area Offices, Bureau of Indian Affairs, for the administration and supervision of BIA's Title I program.

The methodology you set forth to administer-evaluate-supervise the BIA's Title I program is consistent with the legislation and regulations; Attachment B, clearly describes Area/LEA Administrative, Technical Assistance and Supervisory responsibilities for functions performed to effectively carry out local school projects and which may be funded as a part of the total project submission of an Area.

Attachment A, "Central Office Administrative Responsibilities," outlines the kinds of administrative activities which are the proper responsibility of a State Title I office. As you know, the administrative arrangements for staffing, organization, and functions to be performed are to be set forth in a special project, together with a budget, to be approved by the Office of Education. This special project must include a description of all Central Office functions to be performed in the administration of the Title I program.

We shall look forward to receipt of this project for review and approval.

Sincerely yours,

RICHARD L. FAIRLEY,
*Director, Division of Compensatory Education.*

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U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
*Washington, D.C., May 11, 1971.*

Memorandum.
To: All Area Offices—Agencies—Schools. Attention: Education.
From: Director of Education Programs.
Subject: Title I, ESEA—Organization and Responsibilities.

This is to advise that the Memorandum of Understanding between the U.S. Office of Education and the Bureau of Indian Affairs was signed as of April 28, 1971, and is now in effect. Copies will be forwarded to you in the very near future.

In accordance with the Memorandum, the U.S. Office of Education has approved the Bureau's plan for organization and responsibilities under Title I at the local, area, and Central Office levels.

In brief, the approved plan revolves around three basic statements. These are:

1. The Central Office of the BIA stands in lieu of the state educational agency for purposes of responsibility for implementation of the law, with the Commissioner of Indian Affairs, represented by the Director of Education Programs, serving as the head of the state agency.

2. Each area office stands in lieu of the local educational agency for certain aspects of administration, technical assistance, and supervision which are specific to Title I for programs developed within those schools under the jurisdiction of the area office, and for which these services cannot be effectively and economically provided at the local school or agency level alone.

3. The local schools and agencies become parts of the local educational agencies represented by the area offices for the purposes identified above, and the proposals or projects developed at the school or agency level shall be submitted to the area office to become parts of a larger and consolidated area/local education agency project. This larger or consolidated project shall consist of the several school or agency proposals plus a section which provides for the administrative, technical assistance, and supervisory functions which must be provided at the area/local education agency level.

The interpretation of item "3" above is that the programs which are developed for Indian children who are eligible for and who are identified as needing the services of Title I shall be developed at the school or agency level, and the responsibility for the development and operation of proposals lies with the local school or agency, within the constraints imposed by the area/local education agency responsibilities relative to administration, technical assistance, and supervison.

The three attachments to this memorandum describe the responsibilities relative to Title I which reside at the Central Office, the area office, and the local school or agency levels. It is expected that those responsibilities will be implemented at each level.

In the case of any area office that has responsibility for only one or two schools, it is possible that special arrangements may need to be made to implement these responsibilities. Such area offices are requested to discuss this problem with the Central Office so that the arrangements needed can be made.

JAMES E. HAWKINS,
*Director of Education Programs.*

Attachments A, B, C.

## ATTACHMENT A

### CENTRAL OFFICE ADMINISTRATIVE RESPONSIBILITIES

1. Provides liaison with the U.S. Office of Education.

2. Provides liaison with the Central Office Education Office.

3. Makes recommendations to the Director of Education Programs for allocation of Title I funds.

4. Administers fund allocation in accordance with approved allocation plan. Reviews area office reports of fund utilization and maintains full utilization of funds. Recommends to the Director of Education Programs withdrawal of funds from approved projects relative to such matters as established lapses or relative to failure of a project operator to comply with the approved project and/or regulations, and recommends reallocation as necessary.

5. Interprets the law, regulations, and USOE guidelines, and advises and disseminates to the area offices such interpretations. Maintains continuing review of project format and project application forms, and makes such revisions as may be needed. Conducts training sessions for area staffs as may be needed to assure a full understanding of the above.

6. Provides assistance to area offices in meeting their responsibilities in regard to any phase of Title I, as requested.

7. Establishes guidelines for preliminary project review at the area office level and provides general supervision for the process. Reviews all projects after their submission to the Central Office, and makes recommendation to the Director of Education Programs relative to final approval or disapproval.

8. Provides guidelines for project supervision by the area offices, including the reporting of this supervision to the Central Office. Reviews these area reports of supervision and compliance and conducts on-site visits to selected school projects and area offices.

9. Provides guidelines relative to evaluation for the preparation of school and area/LEA evaluation and analysis reports, and for their dissemination. Reviews area evaluation reports and prepares the Bureau-wide evaluation report for USOE. Arranges for dissemination of information to area offices and elsewhere outside the Bureau.

10. Prepares financial and other statistical reports for submission to USOE.

11. Provides area/LEA type services for those schools or agencies which report directly to the Central Office rather than through any area office.

## ATTACHMENT B

### AREA/LEA ADMINISTRATIVE, TECHNICAL ASSISTANCE, AND SUPERVISORY RESPONSIBILITY

*A. Training*

1. Responsible for providing training for selected personnel, for each school desiring to participate in the Title I program, in all requirements of Title I for which the school will be held responsible.

2. Assists schools in the (1) training for and development of the local community and parental involvement in Title I, (2) development and operation of such in-service staff training as may be needed for the operation of the school project, and (3) such other training as [illegible] be needed.

*B. Development*

1. Provides leadership for and assistance to the local schools in developing and writing school project proposals.

2. Keeps schools in the area informed of school projects as they are being developed in other schools in the area in order to facilitate cooperative development.

*C. Submission*

Responsible for performing detailed screening services to make certain that each school project (1) fully meets the legal requirements of Title I, including complete and accurate representation in the application form and narrative section; (2) is substantively acceptable; (3) is feasible under the circumstances that prevail, particularly relative to such factors as staff, facilities, equipment and time-schedule; and (4) can be funded within the monetary limits tentatively allocated to the school or agency.

1. In those instances in which the school project is believed to be in fully approvable form, the area shall incorporate the school project into the area/LEA project and forward the area/LEA project to the Central Office for consideration for final approval and funding.

2. In those instances in which the area office deems the school project is not fully approvable, the area shall return it to the school or agency and shall provide services to the school or agency to assist it in the redevelopment and/or rewriting to the extent that, in the opinion of the area, the revised school project fully meets all considerations. When the area office believes it is approvable, it shall include it in the area/LEA project and forward it to the Central Office.

3. In those instances in which funds are not currently available to the school or agency, the area shall also forward its recommendations relative to the possibilities for future funding.

4. All school projects not considered approvable by the area which the school or agency wishes to appeal must be forwarded to the Central Office by the area along with reasons for disapproval.

*D. Supervision*

The Area Office is responsible for providing such supervision as may be needed to assure performance and fund expenditure in accordance with the school project description and budget, and shall submit reports to the Central Office of this supervision, in accordance with Central Office guidelines. In case of discrepancies noted between the approved school project and its operation or in any apparent lack of progress toward the objectives, the area reviews with the local school or agency the needs and strategies for corrective action and follows up to see that necessary revisions are made. In the event that the necessary modifications are not made at the school or agency level, the area office shall recommend to the Central Office either corrective action or withdrawal of funds.

*E. Evaluation*

1. Areas will have responsibility for insuring that school project evaluation is carried out at the local level consonant with the school project and in accordance with Title I guidelines and regulations.

2. The Area Office will assist the local school in the measurement of educational achievement and in the evaluation of the effectiveness of school projects in meeting the special educational needs of educationally deprived children.

*F. Dissemination of Information*

1. The Area Office shall maintain responsibility for determining that materials, reports and information developed by local school projects in the area are submitted by the schools to project personnel, parents, interested community members, and to the Area Office, in accordance with USOE and Bureau policies.

2. Is responsible for coordinating the dissemination of information among schools in the area in such form as may be useful to them; and for making certain that information, including that concerning project analysis and appraisal that may contribute to improved program planning and operation elsewhere, is disseminated to other areas and to the Central Office.

*G. Allocation*

1. In accordance with the controls established under the law, and as transmitted to the area offices by the Central Office, assists in making tentative allocation of Title I funds to the several schools and agencies against which the latter may develop and submit school projects for consideration.

2. Maintains such financial records as may be needed in order to ascertain that funds are utilized to the fullest, and submits financial reports to the Central Office as requested.

3. Within the controls established by the Central Office, assists in making tentative reallocation of funds whenever deemed necessary in order to obtain the greatest benefit to disadvantaged Indian children.

### *H. Reports*

Prepares and submits financial, statistical and other reports to the Central Office as requested for its use and/or for forwarding to the U.S. Office of Education.

### *I. Administration*

1. Develops a separate section for the area/LEA project(s) that describes the functions, organization, and funding needed in the area office to accomplish the aforementioned responsibilities.

2. Consolidates into one or more area/LEA projects the several school projects that are developed at the local schools and agencies, and includes as a separate section in one of the consolidated area/LEA projects the information and budget described in this Administration section.

3. Submits the consolidated area/LEA project(s) to the Central Office for consideration.

4. After approval of the Area/LEA project(s), including the section on area/LEA administration, implements said section in accordance with the details approved for this section.

5. If, during the operation of the area/LEA project, it becomes apparent that changes are needed in the administration section, submits such proposed changes to the Central Office in regular amendment form. Implements changes if and as approved.

## ATTACHMENT C

## SCHOOL OR AGENCY RESPONSIBILITIES

Within the limitations resulting from the area/LEA implementation of its responsibilities relative to administration, technical assistance, and supervision of the area/LEA Title I project(s), the local school or agency shall be responsible for the following:

### *A. Training*

1. Planning, making arrangements for, and directing training among staff, students, parents and others relative to all phases of local planning, development, operation, and evaluation of its Title I school projects.

2. Conducts or arranges for any necessary in-service training of school project staff.

### *B. Development*

1. Responsible for the development and preparation of school proposals with assistance as needed from the area office in accordance with all aspects of the Title I law, the U.S. Office of Education Regulations and Guidelines, and Bureau of Indian Affairs policy.

### *C. Submission*

Responsible for forwarding all school project proposals to the area office for initial review, and for giving full consideration to any changes believed by the area office as being essential for approval in the Central Office.

### *D. Operation*

1. Responsible for carrying out all aspects of the Title I school project as indicated in the school project, including maximum practical involvement of parents and community members, in all stages of the school project.

2. Responsible for conducting the on-going analysis and appraisal, and for the development of any amendments that may be warranted relative to the improvement of the implementation of the school project, and relative to enabling the BIA to obtain maximum effectiveness from Title I.

*E. Evaluation*

Responsible for school project evaluation, and for reporting these findings to the area office.

*F. Dissemination of Information*

1. Responsible for disseminating instructional materials and findings developed by the school project to the area office in such form as needed by the area office for dissemination to other schools in the area. This will also include results of on-going analysis and appraisal.

2. Responsible for disseminating project information to teachers and parents, in such form as may be useful to them, and to any other interested parties in the community.

*G. Reports and Finances*

1. Responsible for maintaining records and for submitting reports as requested on school project operations, evaluations, finances, etc., to the area office and/or other proper requestors, for the purpose of assuring full accountability.

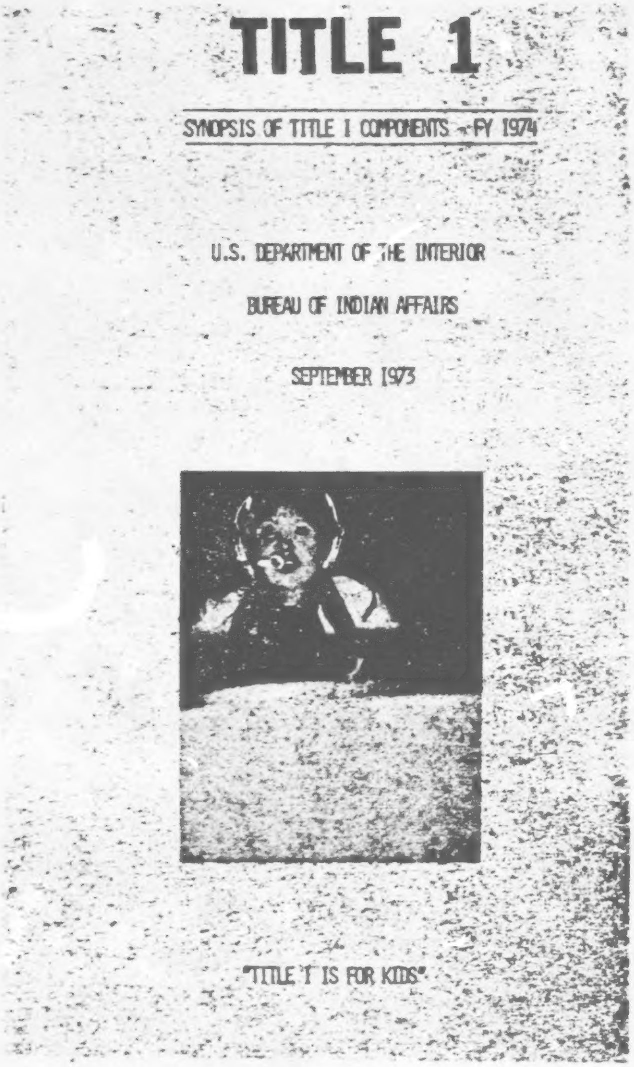
2. Responsible for keeping the area office fully informed at regular intervals on the status of funds approved for the school project.

3. Responsible for operating the school project in accordance with the approved budget and program.

# TITLE I REPORT

## JANUARY 1973

BUREAU OF INDIAN AFFAIRS



# TITLE 1

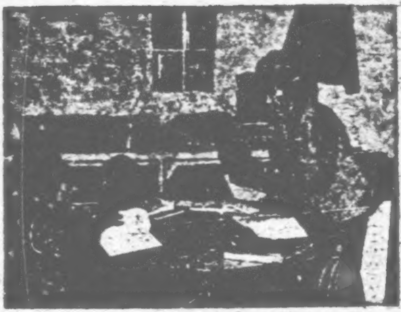
## SYNOPSIS OF TITLE I COMPONENTS - FY 1974

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

SEPTEMBER 1973

"TITLE I" IS FOR KIDS"



FY 1974

## SUMMARY OF TITLE I PROJECTS BY AREAS

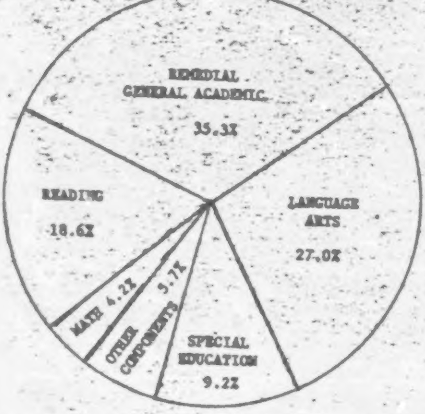
| AREA | # OF PROJECTS | # OF SCHOOLS SERVED |
|---|---|---|
| ABERDEEN | 37 | 36 |
| ALBUQUERQUE | 16 | 14 |
| ANADARKO | 5 | 4 |
| BILLINGS | 3 | 2 |
| JUNEAU | 15 | 55 |
| MUSKOGEE | 3 | 2 |
| NAVAJO | 59 | 60 |
| PHOENIX | 26 | 22 |
| PORTLAND | 2 | 1 |
| S.E. AGENCIES | 12 | 10 |
| C.O. ADMIN | 1 | – |
| TOTALS | 179 | 206 |

TOTAL AMOUNT IN PROJECTS ...... $16,115,649

AS OF SEPTEMBER 15, 1973

MAJOR ACADEMIC TRUSTS OF TITLE I PROJECTS

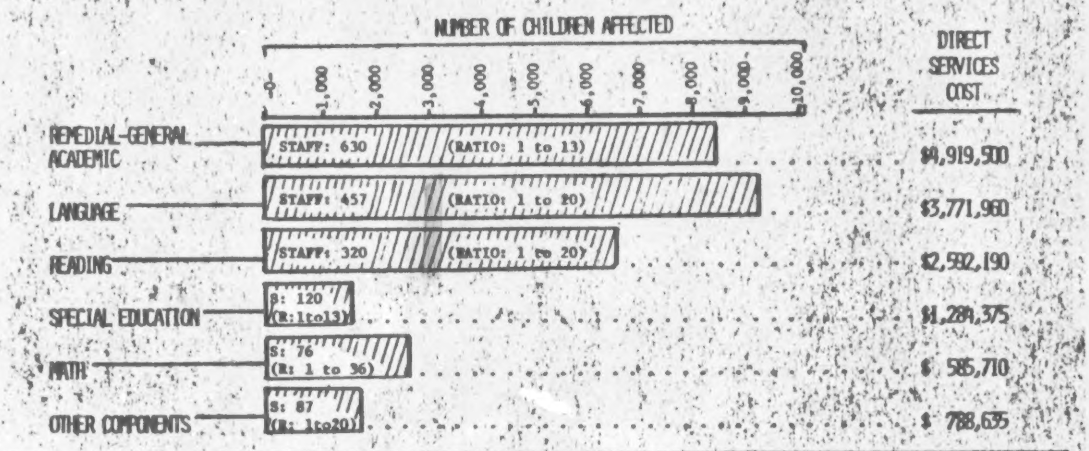
TOTAL CHILDREN INVOLVED - 30,528



THE PERCENTAGES SHOWN ABOVE ARE BASED ON AMOUNTS BUDGETED FOR DIRECT SERVICES FOR CHILDREN AND DO NOT INCLUDE BUDGETED AMOUNTS FOR EVALUATION, DISSEMINATION, PARENT COUNCILS, IN-SERVICE STAFF TRAINING, AND ADMINISTRATION.

## 1ST ACADEMIC PRIORITY LISTED IN TITLE I
## 1974 PROJECTS

| | |
|---|---|
| ABERDEEN | REMEDIAL FOR GENERAL ACADEMIC |
| ALBUQUERQUE | REMEDIAL FOR GENERAL ACADEMIC |
| ANADARKO | READING |
| BILLINGS | READING |
| JUNEAU | REMEDIAL FOR GENERAL ACADEMIC |
| MUSKOGEE | REMEDIAL FOR GENERAL ACADEMIC |
| NAVAJO | LANGUAGE |
| PHOENIX | READING |
| PORTLAND | REMEDIAL FOR GENERAL ACADEMIC |
| S.E. AGENCIES | REMEDIAL FOR GENERAL ACADEMIC |



THE ABOVE GRAPH ILLUSTRATES THE NUMBER OF STAFF TO BE HIRED UNDER TITLE I, NUMBER OF STUDENTS AFFECTED, AND THE RESULTING ADDITIONAL STAFF-STUDENT RATIO PROVIDED BY TITLE I.

## QUESTIONS & ANSW BOUT TITLE I

WHAT IS THE INTENT OF TITLE I? Title I of the Elementary and Secondary Education Act, the largest Federal aid-to-education program, was passed in 1965 to provide financial assistance to local school districts in planning and operating special programs for educationally deprived children. It is a supplementary program, designed to upgrade the educational opportunities of children from disadvantaged backgrounds, and not a general aid program.

WHEN DID THE B.I.A. BECOME ELIGIBLE FOR TITLE I? In November 1966, Public Law 89-750 amended Title I by providing for the inclusion of Indian, migrant, and instutionalized children in the program.

HOW MANY CHILDREN ARE BEING SERVED IN THE BUREAU THRU TITLE I PROJECTS? In 1973, 28,202 children were listed as target children. It is anticipated that 30,528 or more will participate in 1974 projects.

WHAT IS A LOCAL EDUCATION AGENCY (LEA)? For the purpose of the B.I.A., a local school is normally recognized as the local education agency (LEA).

WHAT IS A TITLE I PROJECT? One or more activities designed to meet the special needs of educationally deprived children in a local school.

WHO IS AN EDUCATIONALLY DEPRIVED CHILD? A child who needs special educational assistance to perform at the grade level for his age. All children in B.I.A. schools are eligible provided their academic achievement is below a normal level.

WHAT TYPES OF PROJECTS SHOULD BE PROPOSED? Projects must be designed to meet the particular educational needs of the children being served and may not be designed to meet the needs of the school. Major emphasis must be given to the basic academic skills.

WHO DETERMINES THE AMOUNT OF FUNDS ALLOCATED TO THE B.I.A.? The U.S. Commissioner of Education.

WHAT REPORTS MUST BE MADE UNDER THE LAW? The LEA is required to make annual evaluation and fiscal reports to the SEA. The SEA must, in turn, file similar reports with the Office of Education.

WHO ACTS AS THE STATE EDUCATIONAL AGENCY (SEA) FOR THE B.I.A.? The Commissioner of Indian Affairs has delegated authority to the Director of Education Programs, who then serves in lieu of a Chief State School Officer acting as the head of a State Educational Agency. The Title I Central Office in Albuquerque has been established to provide for the Director the services he needs for the effective performance of his assignment.

For additional information contact:

Title I
Bureau of Indian Affairs
P. O. Box 1788
Albuquerque, New Mexico 87103

# TITLE I REPORT

# FOR FISCAL YEAR 1973 PROJECTS

## AS OF JANUARY 1973

## BUREAU OF INDIAN AFFAIRS

ESEA TITLE I CENTRAL OFFICE STAFF FOR FY 1973

ALBUQUERQUE, NEW MEXICO

John Trace, Chief
Title I Section

| | |
|---|---|
| Oran Dabney<br>Title I Specialist | Heinz Meyer<br>Title I Specialist |
| William Long<br>Title I Specialist | W. Baker<br>Analyst |

# PREFACE

Title I of the Elementary and Secondary Act of 1965 provides educational assistance to Indian children in the Bureau of Indian Affairs' schools. During 1973 approximately 28,202 Indian children out of 48,102 eligible children received supplementary educational services from Title I.

The following report was compiled from 174 projects - FY 1973 - to give the reader a concept of Title I programs throughout the nation operating within the Bureau of Indian Affairs as of January 1973. It is felt that the INTENT of the programs operating at the mid-point of the school year should be reported. Data collected does not take into consideration any salary lapses, cancelled orders, etc., which may occur before the close of school.

## TABLE OF CONTENTS

TITLE I APPROPRIATIONS . . . . . . . . . . . . . . 1

B.I.A. TITLE I BASIC INFORMATION . . . . . . . . 2

TITLE I PROGRAM EXPENDITURES - 1973 . . . . . . 9

STATEMENT OF ACCOMPLISHMENTS . . . . . . . . . . 21

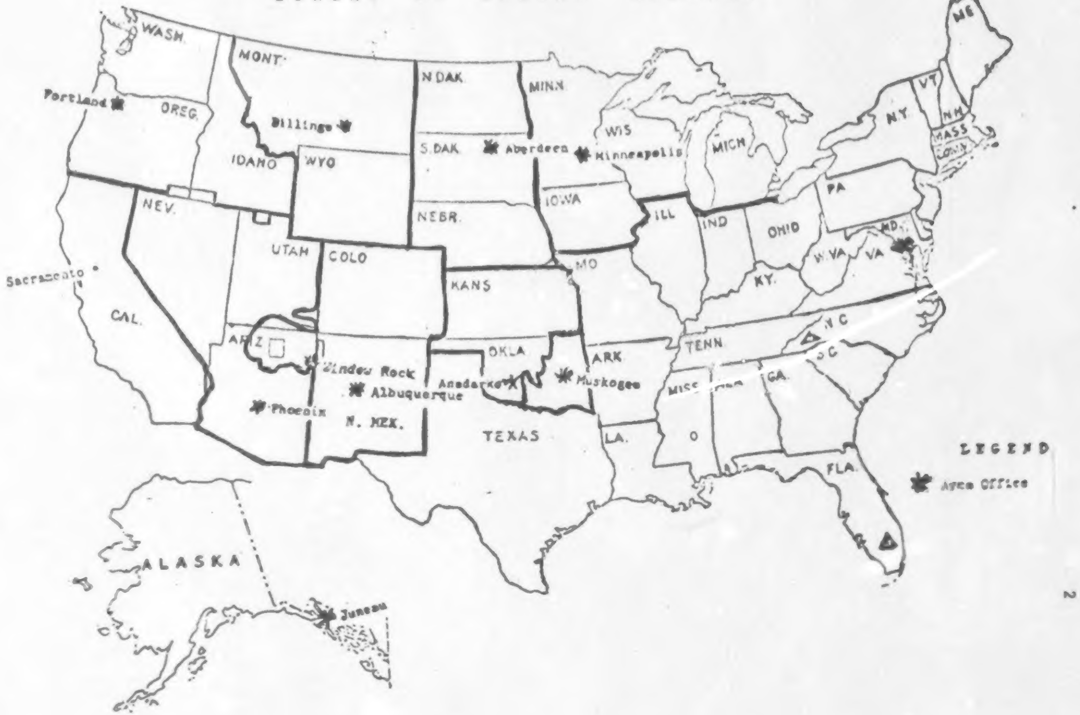
OVERALL ASSESSMENT OF TITLE I - B.I.A. . . . . . 24

## BUREAU OF INDIAN AFFAIRS

## TITLE I APPROPRIATIONS

| | |
|---|---|
| 1973 | $15,384,757 |
| 1972 | 12,477,000 |
| 1971 | 11,702,304 |
| 1970 | 10,660,353 |
| 1969 | 9,000,000 |
| 1968 | 9,000,000 |
| 1967 | 5,000,000 |
| TOTAL TO DATE | $73,224,414 |

# AREA ORGANIZATION FOR BUREAU OF INDIAN AFFAIRS

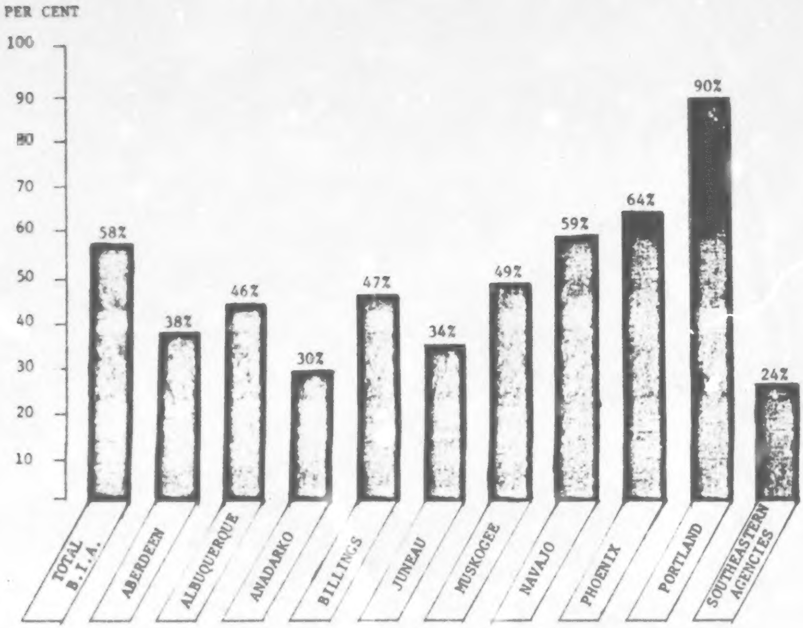

WASH.
MONT.
N DAK.
MINN.
Portland
OREG.
Billings
S.DAK.
Aberdeen
Minneapolis
WIS
MICH
ME
VT
NH
MASS
CONN
N.Y.
IDAHO
WYO
IOWA
PA
NEV.
NEBR.
ILL
IND
OHIO
MD.
UTAH
COLO
KANS
MO
W.VA
VA
Sacramento
CAL.
KY.
N C
TENN
S C
ARIZ
OKLA
ARK
Window Rock
Anadarko
Muskogee
Albuquerque
Phoenix
N. MEX.
TEXAS
MISS
GA.
LA.
FLA.
ALASKA
Juneau
LEGEND
Area Office
2

## TITLE I ELIGIBLE ENROLLMENT DECEMBER 1972

| | ABERDEEN | ALBUQUERQUE | ANADARKO | BILLINGS | S. E. AGENCIES | JUNEAU | MUSKOGEE | NAVAJO | PHOENIX | PORTLAND | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|
| K | 646 | 288 | 0 | 30 | 198 | 239 | 0 | 2,582 | 351 | 0 | 4,334 |
| 1 | 842 | 217 | 0 | 28 | 212 | 970 | 9 | 2,174 | 302 | 0 | 4,754 |
| 2 | 839 | 285 | 0 | 23 | 236 | 548 | 9 | 2,418 | 304 | 0 | 4,662 |
| 3 | 781 | 368 | 0 | 26 | 256 | 580 | 13 | 2,181 | 328 | 0 | 4,533 |
| 4 | 812 | 231 | 0 | 28 | 262 | 587 | 23 | 1,906 | 306 | 0 | 4,155 |
| 5 | 757 | 204 | 0 | 17 | 301 | 534 | 17 | 1,638 | 296 | 0 | 3,764 |
| 6 | 777 | 139 | 0 | 32 | 245 | 501 | 23 | 1,574 | 271 | 0 | 3,562 |
| 7 | 786 | 108 | 0 | 32 | 211 | 501 | 41 | 1,267 | 301 | 0 | 3,247 |
| 8 | 645 | 84 | 0 | 42 | 207 | 417 | 33 | 1,092 | 283 | 0 | 2,803 |
| 9 | 651 | 67 | 234 | 51 | 174 | 223 | 126 | 943 | 527 | 151 | 3,147 |
| 10 | 611 | 67 | 248 | 39 | 161 | 179 | 128 | 761 | 433 | 152 | 2,779 |
| 11 | 438 | 32 | 273 | 24 | 110 | 116 | 115 | 703 | 376 | 170 | 2,357 |
| 12 | 420 | 63 | 218 | 10 | 98 | 107 | 83 | 617 | 328 | 136 | 2,080 |
| UNG ELM | 124 | 36 | 319 | 0 | 1 | 212 | 0 | 1,197 | 36 | 0 | 1,925 |
| UNG SEC | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 9,129 | 2,189 | 1,292 | 382 | 2,672 | 5,714 | 620 | 21,053 | 4,442 | 609 | 48,102 |
| TITLE I TARGET CHILDREN | 3,536 | 1,010 | 395 | 180 | 653 | 1,979 | 306 | 12,559 | 2,858 | 552 | 28,202 |
| PER CENT IN TITLE I | 38% | 46% | 30% | 47% | 24% | 34% | 49% | 59% | 64% | 90% | 58% |

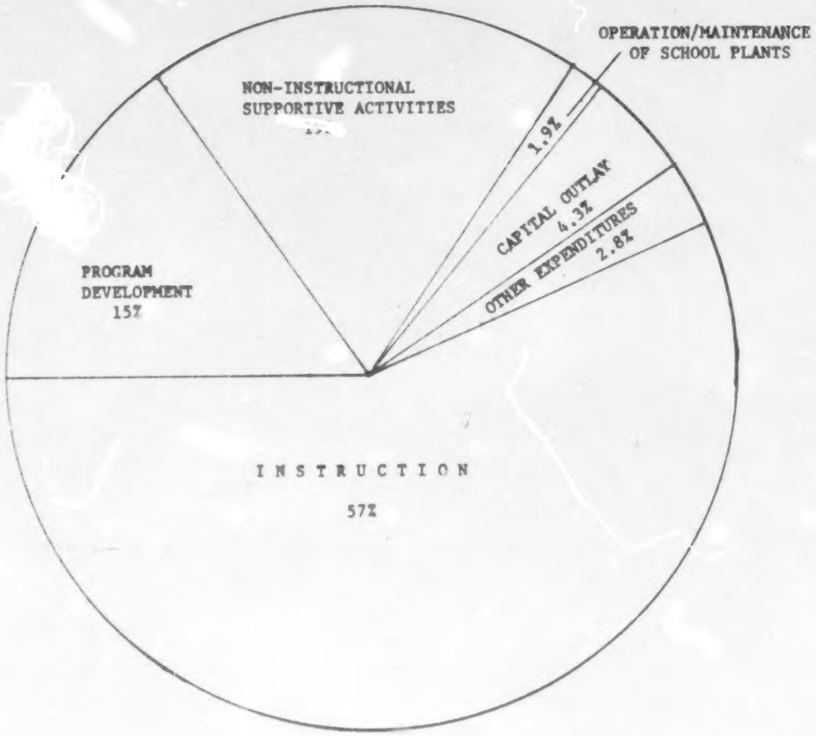
5

PER CENT OF INDIAN CHILDREN BENEFITING FROM TITLE I EDUCATION ASSISTANCE WITHIN THE DIFFERENT REGIONAL AREAS OF THE BUREAU OF INDIAN AFFAIRS



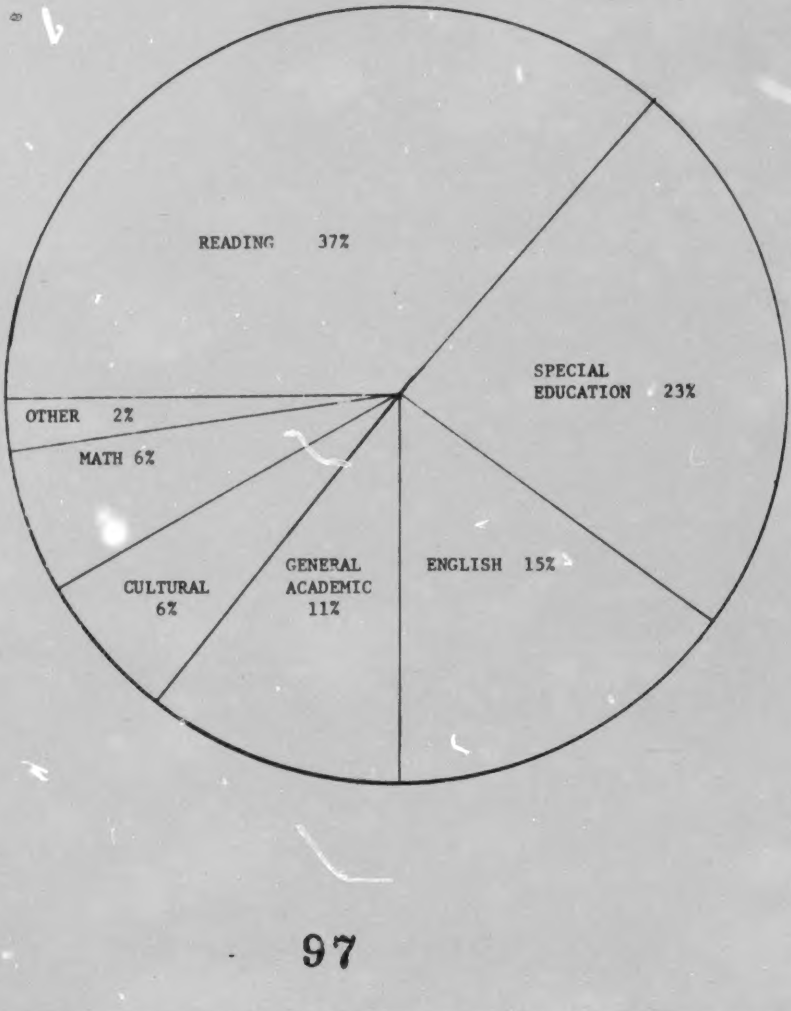
## TITLE I - BUREAU OF INDIAN AFFAIRS - FY 1973

## TOTAL PROGRAM EXPENDITURES



## ACADEMIC AREAS ATTACKED WITH INSTRUCTIONAL SERVICES

## TITLE I - BUREAU OF INDIAN AFFAIRS - FY 1973



## 1ST TWO ACADEMIC PRIORITIES ATTACKED BY TITLE I BY AREAS

**ABERDEEN**
Reading
General Academic

**ALBUQUERQUE**
English
Reading

**ANADARKO**
Special Education
Reading & General Academic

**BILLINGS**
English
Cultural Arts

**JUNEAU**
Special Education
Reading

**MUSKOGEE**
English
Reading

**NAVAJO**
Reading
Special Education

**PHOENIX**
Reading
Language Arts

**PORTLAND**
English
Language Arts

**SOUTHEASTERN AGENCIES**
Reading
Special Education

Aides represent the largest dollar investment by ALL AREAS to supplement academic and supportive activities. Practically all aides are Indian and serve in many capacities, i.e., reading aides, language arts aides, math aides, liason attendance aides, dormitory aides, tutorial aides, bilingual aides, recreation aides, etc.

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS

9

## BUREAU OF INDIAN AFFAIRS

ENROLLMENT: 48,102

NUMBER OF TARGET CHILDREN IN TITLE I: 28,202

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| Teachers: | |
| English/Language Arts | 419,211 |
| Reading | 1,048,153 |
| General Academic | 317,088 |
| Cultural | 164,004 |
| Social Studies | 24,139 |
| Mathematics | 164,342 |
| Special Education | 659,857 |
| Science | 10,415 |
| Voc. Skills/Attitudes | 11,538 |
| Other: | |
| Aides (Used in all academic) | 5,690,238 |
| Hospital Instruction | 18,059 |
| | |
| | |
| TOTAL | $8,527,044 |

| SUPPORTIVE SERVICES | |
|---|---|
| School Psychological Services | 162,980 |
| Attendance/Sch. So. Work | 415,812 |
| Work Study Programs | 257,454 |
| Health Services | 48,005 |
| Pupil Transportation/ Field Trips | 315,575 |
| Food Services | 11,280 |
| Vocational | 3,100 |
| Cultural Arts/Native | 199,235 |
| Other Pupil Services | |
| Early Childhood Staff | 107,316 |
| Physical Education | 102,324 |
| Contributions to Follow Thru | 62,711 |
| Consumer Education | 49,710 |
| Mobile Art Vans | 33,770 |
| Recreation | 34,606 |
| Tutoring | 22,005 |
| Parental Involvement | 14,407 |
| Library Technicians | 14,031 |
| Interpreters | 10,000 |
| Clothing | 6,450 |
| Audio Visual Technicians | 5,910 |
| Dorm Decoration | 2,500 |
| Miscellaneous | 5,667 |
| SUPPLIES | |
| Textbooks | 8,528 |
| Teaching Supplies/Consumables | 527,151 |
| Audio Visual Materials | 496,039 |
| Film Rental | 2,588 |
| TOTAL | $2,919,154 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | 1,125,396 |
| Clerical | 394,472 |
| Other Admin. Expenses | 200,795 |
| CITE Materials/Consultation | 249,525 |
| Research & Development | 193,573 |
| Dissemination | 51,285 |
| Evaluation | 65,939 |
| TOTAL | $2,280,985 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 131,886 |
| Contracting Fees | 101,008 |
| In-Service Training | 189,837 |
| TOTAL | $ 422,731 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | 15,500 |
| Renovation Carpeting | 16,569 |
| Other: Art Van Maintenance | 1,873 |
| Building Rental | 10,100 |
| TOTAL | $ 44,042 |

| CAPITAL OUTLAY | |
|---|---|
| School Facilities: | |
| Buildings | -- |
| Mobile Classrooms | 87,328 |
| Remodeling | 6,925 |
| Equipment: | |
| Audiovisual | 437,767 |
| Instructional Equipment | 62,273 |
| Non-instructional Equip. | 44,424 |
| Equipment Repair | 9,361 |
| TOTAL | $ 648,078 |

TOTAL EXPENDITURES . . . . . $14,842,034

ESEA - TITLE I
B REAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS

## ABERDEEN AREA

ENROLLMENT: 9,129

NUMBER OF TARGET CHILDREN I TITLE I: 3,536

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| eachers: | |
| English/Language Arts | 10,981 |
| Reading | 306,953 |
| General Academic | 114,870 |
| Cultural | 67,033 |
| Social Studies | -- |
| Mathematics | 64,449 |
| Special Education | 79,890 |
| Science | 1,500 |
| Voc. Skills/Attitudes | -- |
| :her: | |
| Aides (Used in all academic) | 931,262 |
| Early Childhood Staff | 107,316 |
| TOTAL | $1,684,254 |

| SUPPORTIVE SERVICES | |
|---|---|
| :hool Psychological Services | 48,388 |
| :tendance/Sch. So. Work | 94,173 |
| ork Study Programs | 105,616 |
| alth Services | 14,061 |
| pil Transportation/Bus &Driver | 9,500 |
| Field Trips | 8,800 |
| od Services | 10,800 |
| cational | 300 |
| ltural Arts/Native | 15,408 |
| :her Pupil Services | |
| Mobile Art Van | 27,780 |
| Recreation | 23,952 |
| Parental Involvement | 12,407 |
| Contribution to Follow Thru | 11,000 |
| Physical Education | 9,265 |
| Tutoring | 5,280 |
| Clothing | 6,500 |
| Dorm Decoration | 2,500 |
| Assemblies | 285 |
| PPLIES | |
| extbooks | 2,827 |
| eaching Supplies/Consumables | 88,899 |
| udio Visual Materials | 82,183 |
| TOTAL | $579,924 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | 204,167 |
| Clerical | 56,414 |
| Other Admin. Expenses | 23,545 |
| Research & Development | 15,902 |
| Dissemination | 11,955 |
| Evaluation | 7,571 |
| TOTAL | $319,554 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 19,797 |
| Contracting Fees | -- |
| In-Service Training | 25,195 |
| TOTAL | $44,992 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | 13,900 |
| Renovation Carpeting | 1,830 |
| Other Mobile Art Van Mainten. | 1,873 |
| TOTAL | $17,603 |

| CAPITAL OUTLAY | |
|---|---|
| School Facilities: | |
| Buildings | |
| Mobile Classrooms | 35,000 |
| Remodeling | |
| Equipment: | |
| Audiovisual | 75,650 |
| Instructional Equipment | 11,314 |
| Non-instructional Equip. | 6,793 |
| Equipment Repair | 1,686 |
| TOTAL | $130,443 |

TOTAL EXPENDITURES . . . . . $2,776,770

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS

## ALBUQUERQUE AREA

ENROLLMENT: 2,189

NUMBER OF TARGET CHILDREN IN TITLE I: 1,010

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| **Teachers:** | |
| English/Language Arts | 51,387 |
| Reading | 31,360 |
| General Academic | |
| Cultural | |
| Social Studies | |
| Mathematics | |
| Special Education | 9,335 |
| Science | |
| Voc. Skills/Attitudes | |
| **Other:** | |
| Aides (Used in all academic) | 257,743 |
| | |
| | |
| | |
| TOTAL | $349,825 |

| SUPPORTIVE SERVICES | |
|---|---|
| School Psychological Services | 17,487 |
| Attendance/Sch. So. Work | 21,320 |
| Work Study Programs | 30,904 |
| Health Services | 3,000 |
| Pupil Transportation/ Field Trips | 4,380 |
| Food Services | |
| Vocational | |
| Cultural Arts/Native | 2,540 |
| Other Pupil Services<br>Student Publications | 1,000 |

| SUPPLIES | |
|---|---|
| Textbooks | |
| Teaching Supplies/Consumables | 12,516 |
| Audio Visual Materials | 59,620 |
| TOTAL | $152,767 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | 21,124 |
| Clerical | 21,623 |
| Other Admin. Expenses | 2,680 |
| Research & Development | 432 |
| Dissemination | 1,150 |
| Evaluation | |
| TOTAL | $ 47,009 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 3,000 |
| Contracting Fees | |
| In-Service Training | 859 |
| TOTAL | $ 3,859 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | |
| Renovation | |
| Other - Building Rental | 600 |
| TOTAL | $ 600 |

| CAPITAL OUTLAY | |
|---|---|
| **School Facilities:** | |
| Buildings | |
| Mobile Classrooms | |
| Remodeling | |
| **Equipment:** | |
| Audiovisual | 38,723 |
| Instructional Equipment | 2,835 |
| Non-instructional Equip. | 4,522 |
| Equipment Repair | |
| TOTAL | $ 46,080 |

TOTAL EXPENDITURES . . . . . $ 600,141

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS

12

ANADARKO AREA

ENROLLMENT: 1,292

NUMBER OF TARGET CHILDREN IN TITLE I: 395

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| **Teachers:** | |
| English/Language Arts | 12,133 |
| Reading | 29,170 |
| General Academic | 29,421 |
| Cultural | |
| Social Studies | |
| Mathematics | 18,503 |
| Special Education | 30,699 |
| Science | |
| Voc. Skills/Attitudes | |
| **Other:** | |
| Aides (Used in all academic) | 72,981 |
| | |
| | |
| | |
| TOTAL | $ 192,907 |

| SUPPORTIVE SERVICES | |
|---|---|
| School Psychological Services | |
| Attendance/Sch. So. Work | |
| Work Study Programs | 31,960 |
| Health Services | |
| Pupil Transportation/ Field Trips | 4,230 |
| Food Services | 480 |
| Vocational | |
| Cultural Arts/Native | 800 |
| Other Pupil Services Parental Involvement | 2,000 |

| SUPPLIES | |
|---|---|
| Textbooks | 903 |
| Teaching Supplies/Consumables | 9,626 |
| Audio Visual Materials | 8,931 |
| TOTAL | $ 19,460 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | 47,335 |
| Clerical | 23,347 |
| Other Admin. Expenses | 2,325 |
| Research & Development | |
| Dissemination | 203 |
| Evaluation | 1,631 |
| TOTAL | $ 74,841 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 2,950 |
| Contracting Fees | |
| In-Service Training | 1,876 |
| TOTAL | $ 4,826 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | |
| Renovation | |
| Other | |
| TOTAL | |

| CAPITAL OUTLAY | |
|---|---|
| **School Facilities:** | |
| Building | |
| Mobile Classrooms | 14,200 |
| Remodeling | |
| **Equipment:** | |
| Audiovisual | 22,079 |
| Instructional Equipment | 2,150 |
| Non-instructional Equip. | 400 |
| Equipment Repair | 550 |
| TOTAL | $ 39,379 |

TOTAL EXPENDITURES . . . . . $ 370,883

## ESEA - TITLE I
## BUREAU OF INDIAN AFFAIRS
## PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
## FY 1973 PROJECTS

13

## BILLINGS AREA

ENROLLMENT: 382 NUMBER OF TARGET CHILDREN IN TITLE I: 180

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| Teachers: | |
| English/Language Arts | 8,000 |
| Reading | 7,500 |
| General Academic | |
| Cultural | 8,000 |
| Social Studies | |
| Mathematics | 7,500 |
| Special Education | |
| Science | |
| Voc. Skills/Attitudes | |
| Other: | |
| Aides (Used in all academic) | 32,974 |
| | |
| | |
| | |
| TOTAL | $ 63,974 |

| SUPPORTIVE SERVICES | |
|---|---|
| School Psychological Services | |
| Attendance/Sch. So. Work | |
| Work Study Programs | |
| Health Services | |
| Pupil Transportation/ Field Trips | |
| Food Services | |
| Vocational | |
| Cultural Arts/Native | |
| Other Pupil Services<br>Contribution to Follow Thru | 9,141 |
| | |
| | |
| | |
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| | |
| | |
| | |

| SUPPLIES | |
|---|---|
| Textbooks | |
| Teaching Supplies/Consumables | 6,451 |
| Audio Visual Materials | 5,442 |
| TOTAL | $ 21,034 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | 11,92 |
| Clerical | |
| Other Admin. Expenses | 60 |
| Research & Development | |
| Dissemination | 47 |
| Evaluation | |
| TOTAL | $ 13,00 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 2,74 |
| Contracting Fees | |
| In-Service Training | 2,35 |
| TOTAL | $ 5,092 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | |
| Renovation | |
| Other | |
| TOTAL | |

| CAPITAL OUTLAY | |
|---|---|
| School Facilities: | |
| Buildings | |
| Mobile Classrooms | |
| Remodeling | |
| Equipment: | |
| Audiovisual | 8,940 |
| Instructional Equipment | |
| Non-instructional Equip. | |
| Equipment Repair | |
| TOTAL | $ 8,940 |

TOTAL EXPENDITURES . . . . . $ 112,040

### ESEA - TITLE I
### BUREAU OF INDIAN AFFAIRS
### PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
### FY 1973 PROJECTS

14

## JUNEAU AREA

**ENROLLMENT:** 5,714 **NUMBER OF TARGET CHILDREN IN TITLE I:** 1,979

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| Teachers: | |
| English/Language Arts | 31,101 |
| Reading | 46,135 |
| General Academic | |
| Cultural | |
| Social Studies | |
| Mathematics | |
| Special Education | 138,883 |
| Science | |
| Voc. Skills/Attitudes | |
| Other: | |
| Aides (Used in all academic) | 943,451 |
| Hospital Instruction | 11,059 |
| | |
| | |
| TOTAL | $1,170,629 |

| SUPPORTIVE SERVICES | |
|---|---|
| School Psychological Services | 2,000 |
| Attendance/Sch. Sc. Work | |
| Work Study Programs | 19,760 |
| Health Services | 500 |
| Pupil Transportation/ Field Trips | 64,020 |
| Food Services | |
| Vocational | |
| Cultural Arts/Native | |
| Other Pupil Services | |
| | |
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| | |

| SUPPLIES | |
|---|---|
| Textbooks | 250 |
| Teaching Supplies/Consumables | 46,337 |
| Audio Visual Materials | 45,491 |
| TOTAL | $ 178,358 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | 194,123 |
| Clerical | 26,322 |
| Other Admin. Expenses | 55,326 |
| Research & Development | 115,457 |
| Dissemination | 7,750 |
| Evaluation | 7,558 |
| TOTAL | $ 406,536 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 40,660 |
| Contracting Fees | 20,628 |
| In-Service Training | 108,229 |
| TOTAL | $ 169,517 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | |
| Renovation | |
| Other: Rent | 8,000 |
| TOTAL | $ 8,000 |

| CAPITAL OUTLAY | |
|---|---|
| School Facilities: | |
| Buildings | |
| Mobile Classrooms | |
| Remodeling | |
| Equipment: | |
| Audiovisual | 40,994 |
| Instructional Equipment | 17,407 |
| Non-instructional Equip. | 7,519 |
| Equipment Repair | 2,200 |
| TOTAL | $ 68,120 |

**TOTAL EXPENDITURES . . . . .** $2,001,160

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS 13

MUSKOGEE AREA

ENROLLMENT: 620 NUMBER OF TARGET CHILDREN IN TITLE I: 306

### DIRECT SERVICES/INSTRUCTION

| | |
|---|---|
| **Teachers:** | |
| English/Language Arts | 11,546 |
| Reading | 8,056 |
| General Academic | |
| Cultural | |
| Social Studies | |
| Mathematics | |
| Special Education | |
| Science | |
| Voc. Skills/Attitudes | |
| **Other:** | |
| Aides (Used in all academic) | 100,659 |
| | |
| | |
| | |
| TOTAL | $ 120,261 |

### SUPPORTIVE SERVICES

| | |
|---|---|
| School Psychological Services | 9,553 |
| Attendance/Sch. So. Work | 7,819 |
| Work Study Programs | |
| Health Services | |
| Pupil Transportation/ Field Trips | 5,156 |
| Food Services | |
| Vocational | |
| Cultural Arts/Native | |
| Other Pupil Services | |
| Assemblies | 730 |
| Dances | 820 |

### SUPPLIES

| | |
|---|---|
| Textbooks | |
| Teaching Supplies/Consumables | 18,665 |
| Audio Visual Materials | 1,067 |
| TOTAL | $ 43,810 |

### PROGRAM DEVELOPMENT

| | |
|---|---|
| Administrative/Coordinators | 12,776 |
| Clerical | 6,163 |
| Other Admin. Expenses | 1,500 |
| Research & Development | |
| Dissemination | 1,000 |
| Evaluation | 2,000 |
| TOTAL | $ 23,439 |

### OTHER EXPENDITURES

| | |
|---|---|
| Parent Council | 1,000 |
| Contracting Fees | |
| In-Service Training | 960 |
| TOTAL | $ 1,960 |

### OPERATION/MAINTENACE OF PLANT

| | |
|---|---|
| Utilities | |
| Renovation | |
| Other | |
| TOTAL | |

### CAPITAL OUTLAY

| | |
|---|---|
| **School Facilities:** | |
| Buildings | |
| Mobile Classrooms | |
| Remodeling | |
| **Equipment:** | |
| Audiovisual | |
| Instructional Equipment | 3,180 |
| Non-instructional Equip. | |
| Equipment Repair | |
| TOTAL | 3,180 |

TOTAL EXPENDITURES . . . . . $ 192,650

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS 16

## NAVAJO AREA

ENROLLMENT: 21,053 NUMBER OF TARGET CHILDREN IN TITLE I: 12,559

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| [illegible] | |
| English/Language Arts | 226,949 |
| Reading | 316,411 |
| General Academic | 158,082 |
| Cultural | 34,026 |
| Social Studies | |
| Mathematics | |
| Special Education | 308,330 |
| Science | |
| Voc. Skills/Attitudes | 11,338 |
| her: | |
| Aides (Used in all academic) | 2,720,865 |
| TOTAL | $3,776,191 |

| SUPPORTIVE SERVICES | |
|---|---|
| hool Psychological Services | 19,271 |
| tendance/Sch. So. Work | 250,342 |
| rk Study Programs | 65,784 |
| alth Services | 27,165 |
| pil Transportation/ Field Trips | 134,825 |
| od Services | |
| cational | |
| ltural Arts/Native | 70,758 |
| her Pupil Services | |
| ysical Education | 87,353 |
| ummer Education | 49,710 |
| creation Specialists | 10,654 |
| terpreters | 70,000 |
| toring | 8,353 |
| spital Instruction | 7,000 |
| rary Technicians | 5,110 |
| thing | 1,930 |
| ile Art Van | 3,990 |
| semblies | 800 |

| SUPPLIES | |
|---|---|
| thods | 3,193 |
| ching Supplies/Consumables | 219,554 |
| io Visual Materials | 174,912 |
| s RENTAL | 2,388 |
| TOTAL | $1,155,363 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | 307,992 |
| Clerical | 207,447 |
| Other Admin. Expenses | 56,409 |
| CITS Materials/Consultation | 249,525 |
| Research & Development | 57,070 |
| Dissemination | 19,647 |
| Evaluation | 39,580 |
| TOTAL | $ 937,670 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 27,381 |
| Contracting Fees | 80,380 |
| In-Service Training | 36,697 |
| TOTAL | $ 144,458 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | |
| Renovation | 4,400 |
| Other Carpeting | 10,234 |
| TOTAL | $ 14,634 |

| CAPITAL OUTLAY | |
|---|---|
| School Facilities: | |
| Buildings | |
| Mobile Classrooms | 18,805 |
| Remodeling | |
| Equipment: | |
| Audiovisual | 104,837 |
| Instructional Equipment | 19,204 |
| Non-instructional Equip. | 16,063 |
| Equipment Repair | 3,485 |
| TOTAL | $ 162,394 |

TOTAL EXPENDITURES . . . . . $6,190,730

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS 17

## PHOENIX AREA

ENROLLMENT: 4,442 NUMBER OF TARGET CHILDREN IN TITLE I: 2,858

### DIRECT SERVICES/INSTRUCTION

| | |
|---|---|
| Teachers: | |
| English/Language Arts | 49,198 |
| Reading | 144,873 |
| General Academic | |
| Cultural | 33,630 |
| Social Studies | 15,224 |
| Mathematics | 44,017 |
| Special Education | 31,971 |
| Science | |
| Voc. Skills/Attitudes | |
| Other: | |
| Aides (Used in all academic) | 396,151 |
| | |
| | |
| | |
| TOTAL | $ 715,064 |

### SUPPORTIVE SERVICES

| | |
|---|---|
| School Psychological Services | 31,549 |
| Attendance/Sch. So. Work | 19,484 |
| Work Study Programs | 100 |
| Health Services | 2,299 |
| Pupil Transportation/Driver | 500 |
| Field Trips | 56,934 |
| Food Services | |
| Vocational | |
| Cultural Arts/Native | |
| Other Pupil Services | |
| Contribution to Follow Thru | 42,570 |
| Physical Education | 25,706 |

### SUPPLIES

| | |
|---|---|
| Textbooks | 400 |
| Teaching Supplies/Consumables | 89,736 |
| Audio Visual Materials | 77,759 |
| TOTAL | $ 347,037 |

### PROGRAM DEVELOPMENT

| | |
|---|---|
| Administrative/Coordinators | 145,620 |
| Clerical | 38,802 |
| Other Admin. Expenses | 49,053 |
| Research & Development | 1,600 |
| Dissemination | 3,655 |
| Evaluation | 1,140 |
| TOTAL | $ 239,870 |

### OTHER EXPENDITURES

| | |
|---|---|
| Parent Council | 12,767 |
| Contracting Fees | |
| In-Service Training | 11,358 |
| TOTAL | $ 24,125 |

### OPERATION/MAINTENACE OF PLANT

| | |
|---|---|
| Utilities | 1,600 |
| Renovation | 2,119 |
| Other | 3,485 |
| TOTAL | $ 7,204 |

### CAPITAL OUTLAY

| | |
|---|---|
| School Facilities: | |
| Buildings | |
| Mobile Classrooms | 19,323 |
| Remodeling | |
| Equipment: | |
| Audiovisual | 89,059 |
| Instructional Equipment | 7,657 |
| Non-instructional Equip. | 6,379 |
| Equipment Repair | 500 |
| TOTAL | $ 122,918 |

TOTAL EXPENDITURES . . . . . $1,456,218

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973 18
FY 1973 PROJECTS

## PORTLAND AREA

ENROLLMENT: 609 NUMBER OF TARGET CHILDREN IN TITLE I: 552

| DIRECT SERVICES/INSTRUCTION | |
|---|---|
| chers: | |
| nglish/Language Arts | 8,915 |
| eading | 8,915 |
| eneral Academic | 3,000 |
| ultural | |
| ocial Studies | 8,915 |
| athematics | 8,915 |
| pecial Education | |
| cience | 8,915 |
| oc. Skills/Attitudes | |
| er: | |
| Aides (Used in all academic) | 14,276 |
| | |
| | |
| | |
| TOTAL | $ 61,851 |

| SUPPORTIVE SERVICES | |
|---|---|
| hool Psychological Services | |
| tendance/Sch. So. Work | 17,830 |
| rk Study Programs | |
| alth Services | |
| pil Transportation/ Field Trips | |
| od Services | |
| cational | |
| ltural Arts/Native | |
| her Pupil Services | |
| brarian | 8,915 |
| dio Visual Specialist | 5,910 |

| PPLIES | |
|---|---|
| xtbooks | |
| eaching Supplies/Consumables | 8,461 |
| dio Visual Materials | 7,647 |
| TOTAL | $ 48,763 |

| PROGRAM DEVELOPMENT | |
|---|---|
| Administrative/Coordinators | $ 5,000 |
| Clerical | |
| Other Admin. Expenses | 2,000 |
| Research & Development | |
| Dissemination | 2,000 |
| Evaluation | |
| TOTAL | $ 9,000 |

| OTHER EXPENDITURES | |
|---|---|
| Parent Council | 16,500 |
| Contracting Fees | |
| In-Service Training | |
| TOTAL | $ 16,500 |

| OPERATION/MAINTENACE OF PLANT | |
|---|---|
| Utilities | |
| Renovation | |
| Other | |
| TOTAL | |

| CAPITAL OUTLAY | |
|---|---|
| **School Facilities:** | |
| Buildings | |
| Mobile Classrooms | |
| Remodeling | |
| **Equipment:** | |
| Audiovisual | 19,979 |
| Instructional Equipment | 1,186 |
| Non-instructional Equip. | |
| Equipment Repair | |
| TOTAL | $ 21,165 |

TOTAL EXPENDITURES . . . . . $ 157,279

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973
FY 1973 PROJECTS

SOUTHEASTERN AGENCIES & I.A.I.A. & CENTRAL OFFICE

ENROLLMENT: 2,672

NUMBER OF TARGET CHILDREN IN TITLE I: 653

### DIRECT SERVICES/INSTRUCTION

| | |
|---|---|
| **Teachers:** | |
| English/Language Arts | |
| Reading | 139,780 |
| General Academic | 8,115 |
| Cultural | 10,620 |
| Social Studies | |
| Mathematics | 20,717 |
| Special Education | 60,759 |
| Science | |
| Voc. Skills/Attitudes | |
| **Other:** | |
| Aides (Used in all academic) | 218,909 |
| TOTAL | $ 458,900 |

### SUPPORTIVE SERVICES

| | |
|---|---|
| School Psychological Services | 28,855 |
| Attendance/Sch. So. Work | 2,844 |
| Work Study Programs | 3,350 |
| Health Services | 1,000 |
| Pupil Transportation/ Field Trips | 6,012 |
| Food Services | |
| Vocational | 2,800 |
| Cultural Arts/Native | 109,731 |
| Other Pupil Services | |

### SUPPLIES

| | |
|---|---|
| Textbooks | 554 |
| Teaching Supplies/Consumables | 23,741 |
| Audio Visual Materials | 32,387 |
| TOTAL | $ 211,474 |

### PROGRAM DEVELOPMENT

| | |
|---|---|
| Administrative/Coordinators | 175,334** |
| Clerical | 14,354 |
| Other Admin. Expenses | 7,357 |
| Research & Development | 2,712 |
| Dissemination | 3,450 |
| Evaluation | 5,959 |
| ** Includes C.O. Admin. | |
| TOTAL | $ 209,166 |

### OTHER EXPENDITURES

| | |
|---|---|
| Parent Council | 5,089 |
| Contracting Fees | |
| In-Service Training | 1,713 |
| TOTAL | $ 6,802 |

### OPERATION/MAINTENACE OF PLANT

| | |
|---|---|
| Utilities | |
| Renovation | 406 |
| Other: Carpeting | 1,000 |
| Rental | 1,500 |
| TOTAL | $ 2,906 |

### CAPITAL OUTLAY

| | |
|---|---|
| **School Facilities:** | |
| Buildings | |
| Mobile Classrooms | |
| Remodeling | |
| **Equipment:** | |
| Audiovisual | 34,326 |
| Instructional Equipment | 520 |
| Non-instructional Equip. | 2,748 |
| Equipment Repair | 940 |
| TOTAL | $ 38,534 |

TOTAL EXPENDITURES . . . . . $ 927,782

ESEA - TITLE I
BUREAU OF INDIAN AFFAIRS
PROGRAM EXPENDITURES REPORT AS OF JANUARY 1973          20
FY 1973 PROJECTS

PERIPHERAL DORMITORIES
(Out-of-State Indian Children Attending Peripheral Dormitories)

ENROLLMENT: 355          NUMBER OF TARGET CHILDREN IN TITLE I: 355

### DIRECT SERVICES/INSTRUCTION

| | |
|---|---|
| Teachers: | |
| English/Language Arts | 9,000 |
| Reading | 9,000 |
| General Academic | 3,600 |
| Cultural | 10,695 |
| Social Studies | |
| Mathematics | 241 |
| Special Education | |
| Science | |
| Voc. Skills/Attitudes | |
| Other: | |
| Aides (Used in all academic) | 967 |
| | |
| | |
| | |
| TOTAL | $ 33,503 |

### SUPPORTIVE SERVICES

| | |
|---|---|
| School Psychological Services | 5,877 |
| Attendance/Sch. So. Work | |
| Work Study Programs | |
| Health Services | |
| Pupil Transportation/ Field Trips | 1,418 |
| Food Services | |
| Vocational | |
| Cultural Arts/Native | |
| Other Pupil Services | |
| Tutorial | 8,172 |
| Custodial | 325 |
| Misc. | 1,417 |

### SUPPLIES

| | |
|---|---|
| Textbooks | 400 |
| Teaching Supplies/Consumables | 3,167 |
| Audio Visual Materials | 400 |
| TOTAL | $ 21,376 |

### PROGRAM DEVELOPMENT

| | |
|---|---|
| Administrative/Coordinators | |
| Clerical | |
| Other Admin. Expenses | |
| Research & Development | 400 |
| Dissemination | |
| Evaluation | 500 |
| TOTAL | $ 900 |

### OTHER EXPENDITURES

| | |
|---|---|
| Parent Council | |
| Contracting Fees | |
| In-Service Training | 600 |
| TOTAL | $ 600 |

### OPERATION/MAINTENACE OF PLANT

| | |
|---|---|
| Utilities | |
| Renovation | |
| Other | |
| TOTAL | |

### CAPITAL OUTLAY

| | |
|---|---|
| School Facilities: | |
| Buildings | |
| Mobile Classrooms | |
| Remodeling | |
| Equipment: | |
| Audiovisual | |
| Instructional Equipment | |
| Non-instructional Equip. | |
| Equipment Repair | |
| TOTAL | |

TOTAL EXPENDITURES . . . . . $ 56,377

## STATEMENT OF ACCOMPLISHMENTS WITH TITLE I FUNDS

Approximately 28, 202 out of 48,202 eligible Indian children are receiving supplementary services funded under Title I this fiscal year (1973). Similar numbers have received such services in previous years since 1966.

During this year, as in the past several years, Bureau schools are concentrating on attempting to remediate and remove academic deficiencies of these children in Reading, Language, General Academic Achievement, English, and Math by providing special instructional programs and such necessary supportive services to correct, or help correct, contributory factors standing in the way of the child's normal learning. Such factors include health and physical handicaps, learning disabilities, social and phychological problems, attendance and welfare.

In the above listed major areas of concentration during FY 1973, approximately $3,000,000 will be spent on correcting Reading deficiencies, $2,800,000 will be spent on improving general academic achievement, another $2,000,000 will be spent on language arts, $1,100,000 on English, $278,000 on mathematics, some of the appropriation will be sepnt on lesser areas of concentration such as Speech correction, Physical Education, Vocational Education, Art, Consumer Education, Pre-school and "Follow Thru". Similar amounts, or percentages of previous total allocations as for FY 1973, have been expended in previous years.

Approximately 80% of all Title I expenditures are for staff. During FY 1972, 387 professional staff and 1,255 paraprofessionals were hired to provide special instructional, counseling or individualized services to Title I students. Some of the professionals and practically all of the paraprofessional staff were Indian. This has resulted in considerable involvement of parents and local Indian community people in the educational process of their children.

As a result of their Title I experiences, many Indian aides have been channeled into continuing their education and some have already received degrees as qualified teachers. At least a half dozen such persons have completed their degrees on the Pine Ridge Reservation and are now teaching. This past year on this same reservation, 10 former Title I aides transferred to Teacher Corps in order to complete their education for teaching degrees.

Title I has been an outstanding mechanism in stimulating parent interest in their children's education and virtually every Bureau school now has a functioning parent council which assists the staff in planning, implementation, operation and evaluation of its Title programs. Such activity has spilled over into concern for the regular program and many Bureau schools now report much better parental concern and parent and school relationships.

Title I, in the Bureau, as in other school systems, has been the cutting edge for new and innovative educational programs. Major changes have been, and are being made in teaching methodology and practices, in changing attitudes and expectancy levels and generally reversing the failure syndrome often so prevalent in schools dealing with minority groups. Emphasis is on individualization and diagnostic and prescriptive techniques. This has seen the rise of Reading and Math laboratories, the use of criterion referenced testing, the setting of specific behavioral objectives and the ever increasing on-going analysis and appraisal, by all interested persons, in evaluating the educational process. It has made possible the setting up of special education classes, classes in diagnosing and remediating specific learning disabilities and provisions for counseling and raising the self image of children as they find themselves succeeding more and more in their instructional activities because of such individualization, diagnosis and prescription.

Specialized programs dealing with the problems of bi-lingual students have been funded under Title I. An excellent bi-lingual program is being funded under Title I in the Juneau Area. The State of Alaska copied this program developed by the Bureau under Title I and submitted it to O.E. for funding under Title VII.

The Navajo Area has developed a coordinated approach to educating Navajo children in the primary grades. This CITE program (Consultants in Total Education) has developed special techniques, materials and trained staff in their use. The Navajo Area reports that, on the average, children going through this program are progressing at a rate more than twice that of similar children going through the Bureau's regular program. Much of this program has been funded under Title I. Its development and implementation would have been impossible without such funding.

In the past, the Bureau Kindergarten program received its start under Title I as did the Art program for Indian children. These programs have since been adopted into the regular Bureau educational program.

As a result of ever better evaluation techniques, considerable evidence exists that confirms that children participating in Title I are achieving at a rate almost twice that of children not in such activities. Evaluation reports from the Phoenix, Aberdeen, Albuquerque, Navajo, and other areas indicate considerable gains in remediation in Reading, English, Language and other academic areas where normal expectancy was an average of 3 to 6 months gain for every 10 months in school. Children receiving Title I services are gaining more than twice this average. For instance, Carolyn Ralston, Project Coordinator for exemplary projects, Teacher's College, Columbia University reviewed the Remedial Reading Laboratory at Sherman Indian School. Quoted from the summary of the report to the Office of Education HEW is the following:

"Through the laboratory and its allied activities, Sherman people have made remarkable gains in reading achievement. Ninth grade students who were in the reading laboratory for a full year (1970-71) made a mean gain of 2.8 years as measured by the California Achievement Test. The program is also exemplary because it has engendered self-confidence among the pupils and because in the reading laboratory, it imaginatively utilizes and integrates several approaches to improve reading. Supported by ESEA Title I funds, the laboratory is in its second year of operation."

It is important to note that the above is not a Bureau sponsored report, but done by an outside agency under contract to HEW. Our own evaluation reports indicate that other schools have achieved similar startling achievement gains. Such schools include Stewart, Brigham City, Cheyenne Eagle Butte, Keams Canyon and many others.

It is beginning to appear that as a result of Title I the "cross over phenomenon" is being reversed in at least one area. Instead of the ever increasing rate of decline in academic achievement of Indian children after the third grade, Title I children in the Phoenix Area appear to be holding their own. Definite evidence exists that this declining rate has stopped. Though not yet at the appropriate grade level, children are gaining on the average rather than losing ground. Evaluation during the next year or two should establish fairly accurate data as to the amount of actual gain being made.

In summary Title I can point to these accomplishments:

I. Increased Indian involvement in development, operation and evaluation of the educational system.

II. Greater parental involvement in the educational process - better parent, community-school relations.

III. The advancement of Indian staff in furthering their education.

IV. Sharp gains by Title I children in remediating their academic deficiencies.

V. Introduction of new techniques and programs into the regular school program thereby raising the general level of Indian education.

VI. Better evaluation techniques relative to school objectives and the educational product.

VII. Changing attitudes and expectancy levels of teachers relative to learning abilities of Indian children.

## OVERALL ASSESSMENT OF TITLE I

In the past there has been a great tendency in schools in general to provide education for the masses of children, without too much regard for the needs of individuals. As a result, school programs were developed to meet general objectives for large groups.

TITLE I SAYS THIS IS NOT ENOUGH.

In the past, schools frequently provided educational programs which, while providing much factual and important data, too often gave inadequate attention to the many causal factors which mitigated against effective learning on the part of the children.

TITLE I SAYS THAT CAUSES NEED TO BE EXAMINED AND ATTACKED.

In the past, although there has been much emphasis given to measurement, often times too little attention was given to a determination of the effectiveness of the activities which were provided with public funds.

TITLE I SAYS THAT THE LATTER NEEDS EMPHASIS.

Thus, in these three matters alone, Title I is beginning to have a dramatic impact on the education of Indian children, because it is making everyone aware of the points that:

a. Schools must look at the needs of individuals,
b. Schools must look at the reasons why individual children are not learning effectively; and
c. Schools must evaluate effectivess of the activities that are provided for children in order to keep school cost at a proper level.

Due to the awareness of the points listed above, Title I has led to the following:

1. As a prerequisite for any Title I project, a total needs - assessment is conducted for all the children, thus focusing attention on the educational needs of the children versus emphasis on programs.

2. The development of programs based on the identified individual needs of each child.

3. The educational staff and parents have become aware of the causes contributing to educational deficiency.

4. Total staff is becoming involved in planning, designing, and implementing the education program.

5. Parental involvement is developing in the education process and decision making at the local level.

6. As result of Title I, the education staff and parents are becoming more cognizant of new and different techniques, methodology, and practices utilized in the educational process of the underachiever.

7. The need for more individual attention in the lower and upper primary grades is developing.

8. A greater awareness of the need for in-service training for staff and parents.

9. The need to place emphasis upon remediation of the causes of an academic deficiency rather than just attacking the deficiency.

10. Staff and parents are becoming aware of both educational and cost accountability.

11. On-going analysis and evaluation of the educational growth of the students for such measurements during the year, and the techniques and methods utilized by the teaching staff have become recognized as integral parts of the educational process.

12. Greater emphasis is being placed by the Bureau of Indian Affairs on the diagnosis and prescription of individualized instructional programs for those children having special educational needs which can not be met in the regular classroom.

13. In cooperation with other Title and regular funding, greater emphasis is being placed on the implementation of activities designed to bridge the cultural gap in a bi-cultural environment.

14. As a part of the Title I allocation to the local education agency, Follow-Thru has been better able to implement experimental and developmental programs at the lower primary level.

15. Career development among native staff has been initiated due to their involvement in the Title I programs.

REVISED

# TITLE I, ESEA

# FUNCTIONAL RESPONSIBILITIES
# AT THE
# CENTRAL OFFICE, AREA OFFICE, LEA LEVELS

BUREAU OF INDIAN AFFAIRS

I. CENTRAL OFFICE FUNCTIONS . . . . . . . . . . . . . Page 1

II. AREA OFFICE TECHNICAL ASSISTANCE FUNCTIONS . . . Page 5

III. LEA FUNCTIONS . . . . . . . . . . . . . . . . . . Page 12

DECEMBER, 3, 1973

## I. CENTRAL OFFICE FUNCTIONS

The Commissioner of Indian Affairs has the approval authority for all projects and project amendments. This authority is delegated to the Director of Education Programs, who then serves in lieu of a Chief State School Officer acting as the head of a "State" educational agency. Further, the Title I Central Office is established to provide for the Director the services he needs for the effective performance of his assignment.

Additionally, this final approval authority may be further delegated by the Director of Education Programs to an appropriate Central Office designate. The Director of Education Programs, however, retains his role as the head of the "State" educational agency.

In accordance with the above, the functions retained at the Central Office level are described below.

A. Central Office Project

1. Develops and administers the Central Office administrative project, in accordance with the Memorandum of Understanding.

B. Liaison

1. Provides Title I liaison services between the Bureau and the U.S. Office of Education.

2. Provides Title I liaison services between Title I and other Bureau activities.

C. Law, Regulations, and Guidelines

1. Obtains interpretations of the law, regulations, and USOE guidelines, and disseminates such interpretations within the Bureau through the respective Area office.

2. Develops and recommends Bureau Title I policies and procedures.

D. Training

1. Conducts training sessions for Title I Area staffs to assure a full understanding of Title I as it applies to the Bureau, and assists Area staffs in their training programs, as requested.

E. Technical Assistance

1. Provides technical assistance to Area offices in regard to any aspect of Title I, as requested or deemed necessary.

F. Allocation and Reallocation of Funds

1. Recommends plan to the Director of Education Programs for the allocation of Title I funds to the Areas.

2. Implements approved allocation plan.

3. Reviews Area reports of funds utilization to determine need for withdrawal and reallocation. Retains authority to withdraw unneeded funds from any Area.

4. Authorizes each Area office to allocate funds within its Area to the several schools and for the Area's Technical Assistance project, all within the limits of the amount allocated to the Area by the Central Office, and within whatever policy guidelines may be established by the Central Office.

G. Project Review and Approval

1. Develops format and instructions for project writing and submission. Revises as necessary.

2. Establishes guidelines for the review of projects, and minimum criteria for the approval of projects.

3. Delegates to each Area office the responsibility and authority for Area review and approval of all in-Area projects and project amendments.

4. Retains and exercises the responsibility and authority for final Bureau review and approval of all Area approved LEA projects and project amendments.

5. Authorizes funding of LEA projects and project amendments only after any such project or amendment has received (a) Area approval, and (b) final Bureau approval.

6. Reviews and recommends approval action on Area Technical Assistance projects.

7. Reviews and recommends Bureau action on any projects that require both Bureau of Indian Affairs and USOE approval.

8. Forwards to the U.S. Office of Education one copy of each Bureau approved project or project amendment.

H. Monitoring and On-Site Visits

1. Develops guidelines for Area monitoring of projects, and develops or approves format for Area monitoring of projects.

2. Reviews all Area office monitoring reports, and reserves right to require action by the Area offices relative to problems reported in the monitoring reports or on the follow-up action reports.

3. Develops format for Central Office monitoring of Area Technical Assistance projects.

4. Monitors Area Office Technical Assistance projects. Includes visits to selected projects as a part of this monitoring process, and reports findings directly to the Area office.

5. May make on-site visits to any projects in any Area relative to any Title I matters of concern to the Central Office. Makes official report of such visits, including any recommendations that may be developed, directly to the Area office.

6. May assist the Area offices as they monitor projects at local educational agencies in their Areas.

I. Financial Records

1. Implements a continuing review and analysis of IADC print-outs showing budget and obligation data. Notifies Areas of any instances in which print-out data appear to warrant review and possible corrective actions by the Areas. Maintains liaison with Financial Management, IADC, and the Area Technical Assistance offices so as to assist in the resolution of financial record problems and assure correct fiscal data.

J. Evaluation and Dissemination

1. Develops format and guidelines for annual evaluation reports to be submitted to the Central Office by the local educational agencies.

2. Prepares and submits to the U.S. Office of Education the Bureau's annual evaluation report for Title I.

3. Develops and implements a plan for Central Office dissemination of information about Title I projects.

K. Reports

1. Compiles and otherwise prepares various types of financial and statistical reports as required by the U.S. Office of Education, or as otherwise needed for use by the Bureau.

L. Out-of-State Peripheral Dormitory Students

1. Allocates funds for out-of-state Indian children attending public schools but living in Bureau operated dormitories, and authorizes funding of projects approved by cognizant State Educational Agencies.

M. Complaints

1. Investigates complaints regarding Title I, and makes official reports to the U.S. Office of Education.

N. Audit

1. Makes arrangements for the Department of the Interior and/or other audits of Title I funds and projects.

2. Reviews findings of audit reports, and initiates actions to assure compliance with the Title I law and regulations.

O. General

1. Performs such other functions as may be incumbent on any State educational agency for the purpose of proper administration of Title I as it applies to the Bureau of Indian Affairs.

## II. AREA OFFICE TECHNICAL ASSISTANCE FUNCTIONS

The Area Office Title I Technical Assistance projects were originally established to provide Title I technical assistance for the many local education agencies (schools or BIA agencies) under the jurisdiction of any Area office. Now, in accordance with Bureau policy of placing more program control at the Area level, the Director of Education Programs delegates to the Area Directors certain Title I functions in accordance with the statements shown below in this section. The role of any Area's Title I Technical Assistance project is expanded to enable it to provide the Title I services needed by the Area Director as the Area performs its Title I functions.

Title I funds may not be used to fund services normally provided for schools or agencies, or in the Area office, out of 1740 funds; but must be limited to those functions performed in the office of the Area Title I Coordinator who may function in the office of the Area Director or the Assistant Area Director for Education. The services that may be funded in the Area Technical Assistance project are shown below:

A. Training

1. Provides training for selected personnel at each school or agency desiring to participate in the Title I program, in all requirements of Title I for which the school or agency will be held responsible.

2. Assists schools or agencies in the (1) training for and development of the local community and parental involvement in Title I, (2) development and operation of such in-service staff training as may be needed for the operation of the project, and (3) such other training as may be needed for Title I.

B. Development

1. Provides leadership for and assistance to the local schools or agencies in developing and writing project proposals.

2. Keeps schools or agencies in the Area informed of projects as they are developed in other schools or agencies in the Area in order to facilitate cooperative development.

C. Fund Allocation

1. Establishes a policy for use in the Area to allocate within the Area the funds which will be available for the development of local projects and the Area Technical Assistance project, all within the guidelines established by the Central Office.

2. Establishes a policy for fund withdrawal and reallocation from and to local projects within the Area, in accordance with Central Office guidelines.

3. Implements the fund allocation and the withdrawal and reallocation policies within the Area.

4. Notifies the Central Office of any excess of funds for the Area's needs so that such excesses may be returned to the Central Office.

5. At the end of the fiscal year, returns to the Central Office all funds which are unobligated at the Area level, or which are unobligated at the project level. (In the case of funds in approved projects, those that are approved for use through August 31 are not to be returned until the latter date.)

6. Determines that financial records relative to Title I funds in the Area are correct; that funds are being used in accordance with project approvals; and that local educational agencies submit proper amendments to modify the use of funds, or to return excesses to the Area office; and may reallocate returned or otherwise available funds to local educational agency projects that show need for more funds and which submit proper amendments thereto.

D. Project Approval

1. Establishes procedures for project review and approval, including minimum quality standards for program design and evaluation as well as regulatory compliance requirements.

2. Reviews all local school or agency projects, and makes necessary approval or disapproval recommendations for the action of the Area office approving official, which shall be either the Area Director or the Assistant Area Director for Education.

   a. In all instances in which a project is given full Area approval and is so signed, forwards required copies to the Central Office for final Bureau action.

   b. In all instances in which the Area office is not willing to give full and complete Area approval for a project, the Area office shall initiate such actions as may be needed to cause the LEA to revise the project as needed. The Area office shall forward any project to the Central Office for final Bureau action only after such project has been revised and can be and is given full and complete approval by the Area office.

3. Authorizes in-Area funding of any LEA project only after notification of final Bureau approval of the project.

4. Follows all of the above procedures relative to any project amendment.

5. In the performance of the above, the Area office is responsible for compliance with the law, the U.S. Office of Education Regulations and Guidelines, and all relevant Bureau policy, guidelines, or other instructions.

E. Follow-up Project Operation

The Area office conducts project follow-up activities as may be needed to assure performance and fund expenditure in accordance with the project description and budget, and submits reports to the Central Office of these activities when requested. In case of discrepancies noted by the Area between the approved project and its operation or in any apparent lack of progress toward the objectives, the Area reviews with the local school or agency the needs and strategies for corrective action, and follows-up to see that necessary revisions are made. In the event that the necessary changes are not initiated at the local level, the Area office may withhold or withdraw Title I funds until the necessary corrective actions have been taken, or may require the removal of illegal or improper obligations or expenditures made against the Title I project.

F. Monitoring

The Area office officially monitors each project each year. Such monitoring includes, as a minimum, the guidelines and format developed by the Central Office. The Area office submits the official monitoring report of the monitoring visit to the cognizant school and/or agency, and includes in its report a statement showing corrective actions presently required, along with its recommendations relative to future projects. Submits to Central Office a copy of the monitoring report. Conducts the necessary follow-up monitoring activities to assure compliance with any corrective actions then required, and advises the Central Office in writing as to the results of the corrective actions taken.

G. Evaluation

1. Area offices may provide technical assistance to local schools in the development of Title I evaluation procedures and techniques for local projects, and may assist such schools in the analysis of evaluation data and in the preparation of project evaluation reports.

2. Areas review project evaluation reports to insure compliance with Title I guidelines and regulations; forward project evaluation reports to the Central Office; and prepare and forward to the Central Office an Area summary of the project evaluation reports.

### H. Dissemination of Information

1. The Area office determines that reports and information developed by local projects in the Area are submitted by the schools or agencies to project personnel, parents, interested community members, and to the Area office, in accordance with USOE and Bureau policies.

2. Coordinates the dissemination of information among schools or agencies in the Area in such manner as may be useful to them; and makes certain that information, including that concerning activity analysis and appraisal that may contribute to improved project planning and operation elsewhere, is disseminated to other Areas and to the Central Office.

### I. Reports

Prepares and/or compiles financial, statistical and other reports for submission to the Central Office as requested for its use and/or for forwarding to the U.S. Office of Education.

### J. Administration

1. Out of the funds allotted to the Area, develops the technical assistance project for the operation of the Area's Title I office. Describes the plans, organization, and funding needed to perform its functions, as outlined above.

2. Submits the technical assistance project to the Central Office for review and approval, and for funding within the funds already available to the Area.

3. Implements the technical assistance project as approved.

4. If changes become needed in the project, submits proposed changes to the Central Office in regular amendment form. Implements changes if and as approved.

5. Submits reports concerning the operation of the project, if and as requested by the Central Office.

K. Contracting by the Area Office

1. The Area technical assistance project must be submitted by the Area office to the Central Office for approval. Its purposes are to assist the local educational agencies relative to Title I, and to assist the Area Director in the performance of his functions under Title I.

2. The U.S. Office of Education Regulations for Title I state, in Section 116.31(c), that the State educational agency must approve each project submitted by any local educational agency. In accordance with Bureau of Indian Affairs policy and organization, the Area level project approval (not final Bureau approval) function is delegated to the several Area Directors. This Area level approval function may not be contracted. Likewise, the concomitant functions of Title I fund distribution and the monitoring of Title I projects may not be contracted.

3. Aside from the restrictions indicated in the paragraph immediately above, the Area Office, if it so desires, may contract for the implementation of any or all of its other technical assistance functions. These other functions are concerned with training, parental involvement, project planning and development, project operation, evaluation, and dissemination. If it does so contract, however, there are several factors that must be considered. These are indicated below:

   a. Title I funds may be used for only those line items funded in the approved project, and in accordance with the approved project. Regardless of what may be written in any contract, the contract does not change the approvals given in the project, and the Area office is responsible for making certain that expenditures of Title I funds are always made in accordance with the approvals given in the project.

   b. The functions described in the statement of Area Office Technical Assistance Functions are the functions of the Bureau at the Area level under Title I, and each technical assistance project is to be written so as to provide funding for proper performance of these functions by Bureau staff members (unless, of course, expertise is needed that could not be made available by Bureau staff members). If the Area office decides that it wishes to contract with an Indian organization outside the Bureau for the performance of any of the Title I functions which the Area office could properly provide without contracting, and if the purpose of such contracting is to further the Government's policy relative to the development of opportunities for the Indian people to participate in the management of their own affairs, then a minimal increase in the technical assistance project budget may be appropriate under the following conditions:

(1) The Technical Assistance project must provide for all functions residing at the Area office level.

(2) All budget items must be fully identified and justified:

(a) Those functions which are to be contracted are to be fully identified, and the funds needed for effective performance must be fully justified.

(b) Those functions which are to be performed by the Area Technical Assistance office must be fully identified and the funds needed for effective performance must be fully justified.

(c) In no instance may there be any overlap of function or duplication of staff or other costs.

(3) Title I funds may not be obligated or expended by the contractor for any items not approved in the project, and may not be comingled with other funds of the contractor.

(4) The Area Office shall be responsible for the withdrawal from the contract of any excess or unneeded funds in a timely fashion so that such excesses, should they develop, can be returned to the Area for effective use in other projects.

(5) The Area Office is responsible for making certain that the contract is effectively implemented, and is responsible to the Central Office for the proper performance of all Title I functions incumbent on the Area Office.

(6) In every case, Title I funds identified in the project for the use of the contractor may be used only for the types of expenditures which would have been allowable had the Area Office performed the functions; and Title I funds, under no circumstances, may be used for types of expenditures not otherwise allowable under USOE Regulations as they pertain to the Bureau of Indian Affairs.

c. If certain activities are contracted, the relationship between the Area Office and the contractor is strictly between these two parties. The Central Office does not get involved, other than in the monitoring and auditing of the Area Technical Assistance project. Regardless, however, of whether or not any contracting is done, the Area Office is held responsible by the Central Office for the proper and effective performance of all Area Technical Assistance functions.

d. For purposes of further clarification and guidance, the following is quoted from the Memorandum of Understanding, part IV-9:

> "In recognition of the intent of the Government to encourage the greatest possible input of the Indian people in the development of the Title I program, as indicated in Section 116.24(d) of the Regulations, the Bureau is authorized to contract at the Area Office level with appropriate Indian tribal groups relative to any Area technical assistance functions that are concerned with training, parental involvement, project planning and development, project operation, evaluation, and dissemination. Funding of any such contract shall be incorporated as a part of the Area Technical Assistance project. There may not be any duplication of functions and staffing as between the Area Office Technical Assistance staff and the technical assistance staff of the contractor, and in no instances may the contractor be funded for any types of expenditures not otherwise allowable under USOE Regulations as they pertain to the Bureau of Indian Affairs. Further, and in reference to those aspects of technical assistance that may be contracted, any such contract may extend to the contractor only such functions as rest with the Area Office under its Technical Assistance project, and may not authorize the contractor to assume control over or otherwise affect the functions that reside at the local educational agency level."

Additionally, if the Area office contracts with an outside organization for any aspects of technical assistance which involve contractor/local school relationships in the development or review of the school's project, it would be inappropriate for such contractor to later contract with any such school for the operation of its project.

## III. LEA FUNCTIONS

Title I authorizes financial assistance to meet the special educational needs of educationally deprived Indian children in Bureau of Indian Affairs schools. Except for the Central Office Administrative project and the Area Office Technical Assistance projects, all projects must be developed and operated at the local educational agency level to provide direct services to identified eligible children. All applicable regulations and other guidelines must be complied with, and each local educational agency that operates a Title I project is fully responsible for all phases of its operation. Reference is made to the Title I Law, the U.S. Office of Education Regulations and Guidelines, and Bureau of Indian Affairs policies and procedures. The functions identified below indicate some of the more common functions that each local educational agency assumes whenever it accepts Title I funds. In no case, however, does omission from the list excuse any local educational agency from full compliance with all applicable regulations, guidelines, policies, or procedures established to implement the law.

### A. Training

1. Plans, makes arrangements for, and implements training among staff, students, parents and others relative to all phases of local planning, development, and evaluation of its Title I project.

2. Conducts or arranges for any necessary in-service training of project staff.

### B. Development

1. Plans, develops, and writes project proposals with assistance as needed from the Area office in accordance with all aspects of the Title I Law, the U.S. Office of Education Regulations and Guidelines, and Bureau of Indian Affairs policy. Particular references are made to Sections 116.17(g), 116.18, and 116.22 of the Title I Regulations.

### C. Submission of Projects

1. Each local educational agency forwards its project to the Area office for its review and consideration for approval, all in accordance with the procedures established for this operation by the Area office. In case the Area office returns a project or amendment for revision before it can be given Area approval, makes such changes as may be needed, in accordance with instructions from the Area office. Resubmits revised project or amendment to the Area office for its reconsideration.

D. Operation

1. Implements all aspects of the Title I project as indicated in the project, including maximum practical involvement of parents and community members, as required in the Title I regulations.

2. Conducts the on-going analysis and appraisal, as outlined in the project, and develops any amendments that may be warranted relative to the improvement of services for the target children, and relative to enabling the BIA to obtain maximum effectiveness from Title I.

E. Evaluation

Prepares annual evaluation report in accordance with Section 116.22 of the Regulations, and as described in the approved project.

F. Dissemination of Information

1. Disseminates to the Area office, and in such form as the Area office may prescribe, the findings developed out of the operation of the project, including the results of on-going analysis and appraisal as well as the project evaluation data and other findings.

2. Disseminates project information to teachers and parents, in such form as may be useful to them, and to any other interested parties in the community.

G. Reports and Finance

1. Initiates, according to established Bureau procedures, all documents relative to the use of funds at the project level; keeps such records as may be needed for effective local control of funds; reviews official obligation and expenditure reports to assure accuracy; and initiates actions needed to correct errors.

2. Keeps the Area office fully informed at regular intervals or as requested by the Area office of such financial matters as the status of obligations, fund balances, projected lapses, unfilled orders, or such other Title I financial information as the Area office may request.

3. Operates the project in accordance with the approval given the project and its budget.

4. Prepares and submits such other reports as are needed for the effective operation of Title I.

## H. Contracting

1. In those instances in which any part or all of a project is contracted, the LEA to whom the project was approved retains, in all cases, full responsibility for implementation of the project as it was approved. In no instance may a LEA contract away its responsibility for such implementation.

2. All obligations or expenditures that are authorized in any contract must be authorized in the approved project, and no Title I funds may be used except as so approved.

3. The Regulations (Section 116.53) indicate that those expenditures that are reasonably necessary for carrying out approved projects are appropriate. Further, it is assumed throughout the law that schools will operate and control the activities that take place within such schools, unless they lack the expertise or capability to operate certain activities. When the latter situation exists, contracting is called for, and those costs which must be met to obtain the services needed would fall within the Regulation that states "such expenditures as are reasonably necessary for carrying out approved projects". Accordingly, all such costs should be anticipated by the school when it develops its project, and thus would be identified and included in the approved project.

4. On the other hand, additional costs that might develop merely because a school decides to contract part or all of a project to some other organization, when the school itself could have effectively implemented the project, do not fall within limits of being "reasonably necessary", and thus may not be covered out of Title I funds. Therefore, such additional costs may not be included in any project, and thus may not be covered with Title I funds in any contract.

5. Reference is again made to the fact that Title I funds may be spent only in accordance with the approvals given in the project. Therefore, any contracts that are developed should clearly indicate that the contractor may use such funds only as stipulated in the project, and that any funds not so needed are to be withdrawn from the contract and returned to the project. The LEA is responsible for determining that the above is accomplished in such time that unneeded funds can be reallocated by the Area office for proper use so as to avoid the loss of funds within the Bureau. As in all other instances, it must be noted that the contractor may not comingle Title I funds with other funds at his disposal.

6. Further, it should be noted that it would be inappropriate for a local educational agency to contract a part or all of a project with a contractor who had been officially involved in the development and/or review of the local educational agency's project.

I. Compliance

The local educational agency, as the result of the signature of its authorized representative on the project, is responsible for full compliance with all applicable aspects of the law, the regulation, USOE guidelines, and Bureau policy and procedures relative to the Title I project.

J. Agency Coordinators

Title I and its Regulations were written primarily in reference to states and their public schools. Implementation within the BIA is on the basis of an agreement between the U.S. Office of Education and the Bureau of Indian Affairs; and this agreement along with approvals otherwise given by the Office of Education, authorizes the Bureau to function within its normal structure, provided no actions taken are contrary to or in conflict with the law.

One example of the preceding was the approval of Area technical assistance projects, and the identification of the functions that reside at the Area level. These functions are uniform in reference to all Areas that have Title I projects.

Another matter of concern revolves around the relationship of an agency office to the schools within such agency. It will be noted that, in the third of the three statements of functions (Central Office, Area, and LEA), no distinction was made between any school and the agency within which it functions. The LEA Functions statement merely identifies the functions that reside at the level at which a project is developed and operated — the so-called local educational agency level. This is the level at which funds are provided for a project that provides services directly to children. Further, it should be noted that except for the Central Office Administration project and the Area Office Technical Assistance projects, all projects must be written by and for operation at the local educational agency level.

Thus, in any instance in which any staff member is employed under Title I at the BIA agency level in a project written for operation at the school level, such staff member must provide services within the local school project. Such services must be fully identified and justified by showing (1) that they are additional services specifically required because the project is to be operated (2) that they are not duplicated by other staff members at the school level (3) that they are not services already being provided non-target children out of 1740 funds, and (4) that they do not otherwise supplant 1740 funds.

An example of the type of position that might fall in the above category is that of an Agency Title I Coordinator in which service is provided to a number of school projects within the agency. This position is not approvable if it merely functions as another level between the local project and the Area office. The position may be established only if it performs all or identified parts of the LEA Functions statement that have previously been identified. Thus, in the development of any local project, the functions of such a Coordinator must be clearly identified within the project, and must be so stated that it can be determined from the project that the requirements indicated in the previous paragraph are being met.

If an Area office wishes to establish a uniform plan for such a position for the various agencies within its Area, it may do so.

If the preceding procedure is followed, each local school project will merely need to reference each of the duties for which the Coordinator will be responsible within the school's project. No other detail would be needed in the school's project. Obviously, those duties for which a Coordinator would be responsible at the several schools might vary from school to school, but all would have been developed in detail in the original plan.

If the above plan is not followed, then each project that receives services from the Coordinator will need to show the detail for all functions to be performed by the Coordinator for the school.

For purpose of emphasis, it is noted again that the position of Coordinator, in the Agency office, is not fundable under Title I if the role is merely to provide another level of assistance or supervision between the school and the Area. His role, if funded under Title I, is to perform certain or all of the functions that automatically accrue to any local educational agency that accepts Title I money. His position is fundable under Title I only to the extent he performs such functions.

In other words, it is essential that those persons who monitor a project must be able to determine clearly that the position is functioning in accordance with the statement of LEA Functions, and that it is funded in any one or a combination of the Agency projects only to the extent that it constitutes a part-time or full-time position.

## K. Contract Schools

1. For the purpose of the development and submission of school projects, the Central Office may recognize any of the following as the local educational agency:

   a. An individual school directly operated by the BIA.

   b. Any BIA agency office which directly operates small and isolated schools for which it would be inappropriate to develop and operate separate school projects.

c. Any BIA office which, through a contract with a non-BIA organization, is responsible for the financial support of a school for Indian children.

d. Any non-BIA organization which, through a contract with some BIA office, operates a school which is financially supported by the BIA for Indian children who are the responsibility of the BIA.

2. In "a", "b", and "c" (above), the LEA is a public authority, and the requirement of fund and property control is fully met. In part "c", however, it should be noted that Title I funds are later made available by the LEA (Bureau office) to a non-BIA organization (the contractor which is not a public authority) by means of a contract. Under the contract, the contractor is held responsible for the operation of the project in accordance with the terms of the approved project. Fund control and title to property remain with the LEA (BIA).

3. In "d" of the same reference, the official LEA is a non-BIA office and a non-public authority. In this instance, funds are not made available to the LEA (the contractor) until after a contract is made between some office of the BIA and the contractor, with such contract requiring performance by the contractor in accordance with the terms of the approved project. Thus, control over funds and title to and administrative control over property acquired with such funds remain with the public authority — the BIA office responsible for the initiation of the contract.

4. Further, in the instance in which the contractor and the LEA are the same, the contractor shall be the same as is or will be the contractor that the BIA recognizes for the operation of the school.

5. In the case of any contract school, the Title I project and the contract for project funding must require compliance by the contractor with all of the requirements imposed by the Title I law, the regulations, and all BIA guidelines and requirements, except that in these instances in which a contract school is involved, section "G . Reports and Finance" of this part on "LEA Functions" is modified as follows:

G. Reports and Finance (re Contract Schools)

1. The contractor shall maintain such financial records and documents as may be required by the BIA:

(a) to enable the BIA to assure itself that Title I funds are being used by the contractor in accordance with the approved project and the contract, (b) to enable the BIA to periodically reimburse the contractor for expenditures made, and (c) to enable the BIA to record such expenditures within its records as may be needed to correct errors or improper charges relative to Title I funds.

2. The BIA office responsible for initiating the contract shall assure itself that all payments made to the contractor are proper, shall cause all Title I charges under the contract to be entered into the BIA accounting records, shall initiate any actions needed to assure the accuracy of the BIA records, and shall take such other actions as may be needed to assure proper control over Title I funds.

3. The contractor shall keep the appropriate BIA office fully informed at regular intervals or as requested by such office of such Title I financial matters as the status of obligations, fund balances, projected lapses, unfilled orders, or such other Title I financial information as the BIA needs.

4. The BIA office responsible for initiating the contract shall take such actions as may be needed to assure "3" above.

5. The BIA office responsible for initiating the contract shall make certain that project and contract modifications are properly made whenever it is determined that such modifications are needed for the most effective use of Title I funds within the BIA.

6. The contractor shall operate the project in accordance with the approvals given in the project, or in any approved amendments thereto.

7. The contractor shall prepare and submit such other financial reports as are needed by the BIA for the effective operation of Title I.

## AUDIT OF JOHNSON-O'MALLEY FINANCIAL ASSISTANCE TO THE INDEPENDENT SCHOOL DISTRICT NO. 22, KIRTLAND, N. MEX., PERIOD JULY 1, 1969, THROUGH APRIL 30, 1972

(By U.S. Department of the Interior, Office of Survey and Review Audit Operations, Lakewood, Colo., June 1972)

### INTRODUCTION

In accordance with a request made by the Office of the Solicitor, Division of Indian Affairs, we have performed an audit of Johnson-O'Malley (JOM) assistance funds received and expended by Independent School District No. 22 (ISD). The audit covered fund activity during the period July 1, 1969, through April 30, 1972, and was completed in June 1972.

The audit was made in accordance with generally accepted auditing standards applicable in the circumstances and included such tests of the accounting and other records and procedures as were considered appropriate. Inasmuch as ISD is annually audited (including tests of internal control procedures) by independent certified public accounting firms, a detailed evaluation of ISD's internal controls was not considered necessary. The report resulting from the last audit, dated June 30, 1971, stated that internal controls were found to be satisfactory. Our audit was limited to a test of transactions to determine the propriety of the expenditures funded by Johnson-O'Malley assistance payments.

Under the JOM Act (25 U.S.C. 452–454), the Bureau of Indian Affairs (LIA), through contractual arrangements with States and school districts, provides funds toward the cost of educating Indian children living on or near reservations and enrolled in public schools for:

> Support of normal maintenance and operations of public schools;
>
> Special services, such as special teachers and counselors, lunches, extra books and supplies, fees, and other services that are not furnished by school districts to all children; and
>
> State administrative and supervisory services support.

The Code of Federal Regulations provides that JOM financial assistance for the public school education of Indian children be based on the need of a school district after evidence that it had made a reasonable tax effort and had exhausted all other resources of revenue (25 C.F.R. 33.4(b)). The regulations provide also that, when school districts are eligible for Federal impact funds under Public Law 874, Eighty-first Congress (64 Stat. 1100), as amended August 12, 1958 (72 Stat. 559), supplemental aid under the JOM Act will be limited to meeting educational problems under extraordinary or exceptional circumstances (25 C.F.R. 33.4(c)).

As previously mentioned, we conducted this audit at the request of the Solicitor's Office. It is our understanding that the Solicitor's Office request was based on a request for an audit from the Department of Justice, as a result of a complaint filed in the United States District Court for the District of New Mexico against the ISD. The complaint, identified as Civil Case 8872, contains allegations concerning the use of State and local funds, Department of Health, Education, and Welfare (DHEW) Title I funds, and DHEW Impact funds, as well as JOM funds.

Although the complaint contains allegations concerning State and local funds, Title I funds, and Impact funds, our audit was limited to JOM funds and is responsive to the complaints made as they pertain to the JOM Act and the applicable sections of the Code of Federal Regulations. Pursuant to P.L. 89-10 and P.L. 81-874, Title I and Impact funds, respectively, are under the audit cognizance of the DHEW.

The financial status of the JOM funds covered by the audit is shown in the attached exhibits. The funds were provided to ISD from the State of New Mexico, Department of Education, under contractual agreements between the State of New Mexico and the LIA. These funds were classified in the category of special services, previously identified as one type of JOM assistance.

The complaint filed against the Independent School District No. 22 contains the following allegations:

1. Johnson-O'Malley Act funds are illegally used for general support, despite the fact that the district receives large amounts of Impact Aid funds, in violation of 25 C.F.R. 33.4(c), which obligates the district to limit the use of Johnson-O'Malley Act funds to special programs for educational problems under extraordinary and exceptional circumstances;

2. Moreover, the general use of Johnson-O'Malley Act funds illegally benefits non-Indian children; and

3. Finally, Johnson-O'Malley Act general use funds are used in a discriminatory manner, because the distribution of resources in the district gives non-Indian students an inordinate and unequal amount of state and local funds and Johnson-O'Malley Act funds, thus depriving Indian students of a fair and equal share of these funds, in violation of 25 C.F.R. 33.5(c) and 42 U.S.C. § 2000d.

Our audit was directed toward being as responsive as possible to the first two allegations. A response to the third allegation, however, would require an extensive review of the entire ISD school system for the past three-year period. This would, of necessity, include a financial analysis, accompanied by a complete review of all school programs. This type of analysis could not be completed in the short time period allowed for our audit. Any partial response to this allegation would, we believe, be misleading.

The first allegation misquotes the Code of Federal Regulations. The cited section, 25 C.F.R. 33.4(c) does not contain the words, "special programs." In regard to the first two allegations, several school district JOM programs should, in our opinion, be reclassified as basic or general support programs. For example, the "Minimum Standards for New Mexico Schools" for school year 1971–1972 includes such programs as pre-school, registered nurses, arts classes, counselling services (attendance), and adequate clerical assistance in the basic school program. The cited regulation does not preclude the expenditure of JOM funds for basic or general support. What is lacking in the district's JOM program is formal justification showing need under extraordinary or exceptional circumstances.

Further information concerning the JOM program at ISD is contained in the following sections.

## FINDINGS

### *Fiscal years 1970 and 1971*

Our review of ISD accounting records and related documents for fiscal years 1970 and 1971, showed that ISD received $277,788.53 and $258,547.88 in JOM assistance, respectively, and expended $236,556.49 and $205,638.60, respectively. The differences of $41,232.04 in 1970 and $52,909.28 in 1971 were retained by ISD. State plans and contracts in effect during these two fiscal years contained provisions requiring that any unused funds received from the Bureau (LIA) under a contract for a previous period shall be used as a credit to the subsequent budget estimate. No credit was made for any unexpended balances at ISD. Detailed breakdowns of receipts and expenditures by year and program classifications are shown in the attached exhibits to this report.

During fiscal years 1970 and 1971, all JOM funds at ISD were commingled with the regular operational funds. ISD officials informed us that the agency responsible for administering the JOM program at the New Mexico State Office (the Department of Education) did not require a separate accounting of JOM expenditures until school year 1971–1972.

As a result of the commingling of JOM and regular operational funds in fiscal years 1970 and 1971, we were unable to identify the applicable JOM expenditures for various budget line items. A brief comparison of JOM funded costs of ISD's total operational costs for these budget line items, along with ISD enrollment data follows:

| | 1970 | 1971 |
|---|---|---|
| Total ISD enrollment [1] | 3,866 | 4,015 |
| JOM eligible enrollment [1] | 2,543 | 3,210 |
| Percent of JOM enrollment | 65.8 | 80.0 |

| Number and budget line item | | Fiscal year 1970 | | Fiscal year 1971 | |
|---|---|---|---|---|---|
| | | JOM funded costs | ISD total costs | JOM funded costs | ISD total costs |
| 120.3 | Centralized research | $250 | $250 | | |
| 230.3 | Other library supplies | 3,600 | 3,600 | 6,637 | 7,808.60 |
| 240.1 | General instructional supplies | 37,700 | 37,650 | 21,720 | 42,531.68 |
| 240.3 | Support supplies and services | | 18,750 | 6,637 | 16,415.81 |
| 420.1 | Health support supplies and services | 1,577 | 1,371 | 1,375 | 1,540.78 |
| 420.2 | Health service travel | | 800 | 300 | 1,100.04 |

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[1] Enrollment data is based on ADM's, which represents the average daily membership of students for the entire school year.

Expenditures for other line items shown in the attached exhibits are self-explanatory. Differences in these other line items between receipts and expenditures, resulted from ISD being reimbursed for line items on a budgeted basis rather than on an actual expenditure basis.

Several thousand JOM funded lunches were provided each month at this district during fiscal years 1970 and 1971. Because of the limited time provided for this audit, we did not attempt to trace the recipients.

The reserve distribution shown as a non-budgeted item in Exhibit I represents a portion of unexpended JOM funds on hand, at the State level, toward the end of fiscal year 1970. In June 1970, these unexpended funds were apportioned to various JOM school districts by State Department of Education officials. We believe this was done to circumvent the contract provision requiring unused funds to be credited to the subsequent year's budget. ISD's share of the apportionment was determined to be $19,202.00.

*Fiscal year 1972*

Our review of ISD's accounting system in fiscal year 1972, disclosed that JOM subaccounts (IBM ledger cards) have been established for each JOM budget line item. As of April 30, 1972, JOM subaccounts showed total expenditures of $152,070.47. ISD has either received or submitted payment requests for JOM assistance totaling the $152,070.47. A detailed breakdown of receipts and expenditures by program classification is shown in Exhibit III.

A brief description of the overall JOM special programs provided at various ISD schools follows:

*Arts and crafts*

Art and craft classes were conducted at Shiprock High School (SHS) and Central Junior High School (CJHS). The enrollment of participants in SHS was 100 percent JOM eligible while at CJHS, JOM eligible participants varied between 50 and 78 percent. Overall, out of the six classes conducted at CJHS, approximately 63 percent of the participants were JOM; the remaining 37 percent were reported by school officials as non-JOM eligible.

Three teachers and one teacher's aide were assigned to ISD's arts and crafts program during fiscal year 1972. Two of the teachers, one each assigned to SHS and CJHS, and a teacher's aide, assigned to CJHS, were funded by JOM moneys, while the third teacher, assigned to CJHS, was funded by regular school moneys.

As a result of the mixture of participants in the arts and crafts program at CJHS, and the dual funding of the program, as discussed above, we have reviewed the salary costs of the three personnel involved in the arts and crafts program at CJHS. A brief comparison of the teachers and teacher's-aides estimated salaries for school year 1971–1972, along with the percent of program funding and participants follows:

| Name | JOM funded | School funded |
|---|---|---|
| Carl Efurd (teacher) | $9,550 | |
| Fred Moore (teacher) | | $10,050 |
| Irma Waite (aide) | 3,150 | |
| Total | 12,700 | 10,050 |

| | JOM | Non-JOM |
|---|---|---|
| Percent of program funding | 56 | 44 |
| Percent of participants | 63 | 37 |

Instruction in the area of arts (fine arts and practical arts) is listed as part of the basic school curriculum in the "Minimum Standards for New Mexico Schools" for the 1971–1972 school year.

*Kindergarten*

Kindergarten classes were conducted at Naschitti, Newcomb and Ruth N. Bond elementary schools. The enrollment of participants in Naschitti and Newcomb classes were 100 percent JOM eligible while at Ruth N. Bond; JOM eligible versus non-JOM participants varied between classes. Overall, out of three classes conducted at Ruth N. Bond, approximately 46 percent of the participants were JOM; the remaining 54 percent were reported by school officials at non-JOM eligible.

Five teachers and five teacher's-aides were assigned to the ISD kindergarten program during fiscal year 1972. Three of the teachers and teacher's-aides were assigned to Ruth N. Bond school, while the remaining two teachers and teacher's-aides, one each, were assigned to Naschitti and Newcomb schools. All kindergarten personnel were funded by JOM moneys.

The class composition as of May 31, 1972, for the kindergarten program at the three elementary schools, along with the teachers and teacher's-aides estimated salaries for school year 1971–1972 follows:

| School | Class composition |  | Estimated salaries |  |
|---|---|---|---|---|
|  | JOM | Non-JOM | Teachers | Aides |
| Naschitti, 1 class | 28 |  | $7,700 | $3,150 |
| Newcomb, 1 class | 26 |  | 9,500 | 2,610 |
| Ruth N. Bond, 3 classes | 41 | 48 | 26,200 | 8,370 |

JOM funds were also used to provide kindergarten instructional and support supplies and services. The related expenditures for these funds are shown in Exhibit III, budget line items, 1120.1, instructional supplies and services, and 1120.2, support supplies and services.

*Registered nurses and health aides*

Two nurses and two health aides were JOM funded during fiscal year 1972. The nurses were assigned to schools having large numbers of JOM students while the health aides were assigned to schools with varying percentages of JOM and non-JOM students. The nurses and health aides served all students in the schools assigned.

A listing of the schools with the applicable assigned personnel, along with enrollment data for the school year 1971–1972 follows:

| School | Personnel assigned | Enrollment[1] |  |
|---|---|---|---|
|  |  | JOM | Non-JOM |
| Naschitti Elementary | ½ nurse | 222 | 5 |
| Newcomb Elementary | do | 365 | 17 |
| Valley Elementary | do | 386 | 32 |
| Mesa Elementary | do | 539 | 28 |
| Grace B. Wilson Elementary | 1 health aide | 203 | 228 |
| Central High School | ⅓ health aide | 141 | 182 |
| Central Junior High School | do | 78 | 161 |
| Ruth N. Bond Elementary | do | 176 | 132 |

[1] Enrollment data is based on ADA's, that is, the average daily attendance of students for the month of April 1972

The "Minimum Standards for New Mexico Schools" for school year 1971–1972 contains the following provision: "The school shall provide adequate health services to its students. A school nurse shall be assigned full-time for each 1200 students. The schools shall provide adequate physical facilities, materials, and clerical assistance to augment the program."

*Other programs*

One attendance officer was JOM funded during fiscal year 1972. The JOM program also funds travel costs of the attendance officer which are incurred in the performance of his assigned duties. The intent behind this program was to provide effective liaison between the schools and the Indian community in the areas of attendance and other problems.

Two secretarial/clerical assistants were JOM funded in fiscal year 1972. One of these assistants was assigned to Shiprock High School to aid in instructional duties while the other was assigned administrative duties at Shiprock Administrative Offices (SAO) located in Shiprock, N.M.; the SAO is a branch office of ISD's Administrative Offices located in Kirtland, N.M. SAO services schools having large numbers of JOM students, such as, Shiprock High, Mesa Elementary, etc. For further information on school enrollment data see page 11 of this report.

During fiscal year 1972, the JOM program also funded transportation costs incurred at Shiprock High School. These costs represent the transporting of JOM reservation students to and from basketball, football and other school activities.

## EXHIBIT I

### SUMMARY OF JOHNSON-O'MALLEY RECEIPTS AND EXPENDITURES CENTRAL CONSOLIDATED SCHOOL DISTRICT NO. 22 PERIOD JULY 1, 1969, THROUGH JUNE 30, 1970

| Budget line number and expenditure classification | Johnson-O'Malley | | Differences |
|---|---|---|---|
| | Receipts | Expenditures | |
| Budgeted line items: | | | |
| 120.3 Centralized research | $250.00 | | $250.00 |
| 210.6 Other instructional staff (2 art, 6 pre-1st teachers) | 50,402.00 | $70,846.03 | (20,444.03) |
| 230.3 Other library supplies | 3,600.00 | | 3,600.00 |
| 240.1 General instructional supplies | 37,700.00 | | 37,700.00 |
| 410.2 Registered nurses (1) | 7,822.00 | 8,704.83 | (882.83) |
| 420.1 Health support supplies and services | 1,577.00 | | 1,577.00 |
| 1110.4 Kindergarten | 41,940.00 | 41,710.10 | 229.90 |
| Subtotal—Budgeted line items | 143,291.00 | 121,260.96 | 22,030.04 |
| Nonbudgeted line items: | | | |
| Reserve distribution | 19,202.00 | | 19,202.00 |
| Lunch reimbursements | 115,295.53 | 115,295.53 | |
| Subtotal—Nonbudgeted line items | 134,497.53 | 115,295.53 | 19,202.00 |
| Total | 277,788.53 | 236,556.49 | 41,232.04 |

## EXHIBIT II

### SUMMARY OF JOHNSON-O'MALLEY RECEIPTS AND EXPENDITURES ,CENTRAL CONSOLIDATED SCHOOL DISTRICT NO. 22 PERIOD JULY 1, 1970, THROUGH JUNE 30, 1971

| Budget line number and expenditure classification | Johnson-O'Malley | | Differences |
|---|---|---|---|
| | Receipts | Expenditures | |
| Budgeted line items: | | | |
| 110.3 Administrative aides (2) | $6,500.00 | $5,284.00 | $1,216.00 |
| 210.4 Teachers (2 arts) | 16,150.00 | 15,461.00 | 689.00 |
| 230.3 Other library supplies | 6,637.00 | | 6,637.00 |
| 240.1 General instruction supplies | 21,720.00 | | 21,720.00 |
| 240.3 Support supplies and services | 6,637.00 | | 6,637.00 |
| 410.2 Registered nurses (2) | 15,161.00 | 14,622.00 | 539.00 |
| 420.1 Health support supplies and services | 1,375.00 | | 1,375.00 |
| 420.2 Health service travel | 300.00 | | 300.00 |
| 819.1 ERA (retirement) | 5,493.00 | 4,688.65 | 804.35 |
| 819.2 Social security | 4,402.00 | 4,565.95 | (163.90) |
| 1110.4 Kindergarten (5 teachers and 2 aides) | 53,000.00 | 48,277.00 | 4,723.00 |
| 1120.1 Kindergarten transportation | 6,835.00 | 8,606.12 | (1,771.12) |
| 1120.2 Instructional expense | 1,500.00 | 1,500.00 | |
| 2200.0 Special projects (portable classrooms) | 10,204.00 | | 10,204.00 |
| Subtotal—Budgeted line items | 155,914.00 | 103,004.72 | 52,909.28 |
| Nonbudgeted line items: Lunch reimbursements | 102,633.88 | 102,633.88 | |
| Total | 258,547.88 | 205,638.60 | 52,909.28 |

## EXHIBIT III

### SUMMARY OF JOHNSON-O'MALLEY RECEIPTS AND EXPENDITURES, CENTRAL CONSOLIDATED SCHOOL DISTRICT No. 22 PERIOD JULY 1, 1971, THROUGH APRIL 30, 1972

| Budget line number and expenditure classification | Johnson-O'Malley | | Differences |
|---|---|---|---|
| | Receipts | Expenditures | |
| Budgeted line items: | | | |
| 110.4 Secretary/clerical assistants-administration | $3,652.00 | $3,652.00 | |
| 210.5 Other instructional staff (2 art teachers) | 11,229.00 | 11,360.00 | ($131.00) |
| 210.7 Secretary/clerical assistants—Instruction | 2,284.00 | 2,284.00 | |
| 210.9 Instructional aides (1 art) | 3,655.00 | 2,655.00 | |
| 310.1 Attendance officer (1) | 3,640.00 | 3,640.00 | |
| 320.2 Attendance travel | 265.28 | 265.28 | |
| 410.2 Registered nurses (2) | 10,430.00 | 10,299.00 | 131.00 |
| 410.3 Secretary/clerical assistants—Health aides (2) | 5,250.00 | 5,250.00 | |
| 420.2 Health service travel | 426.28 | 426.28 | |
| 819.1 Educational retirement | 2,311.35 | 2,311.35 | |
| 819.2 Social security | 1,949.31 | 1,949.31 | |
| 819.3 Health, accident insurance premiums | 271.36 | 271.36 | |
| 1110.4 Kindergarten teachers (5) | 28,996.00 | 28,996.00 | |
| 1110.1 Kindergarten aides (5) | 11,493.25 | 11,493.25 | |
| 1110.2 Kindergarten—Other personnel | 151.50 | 151.50 | |
| 1119.1 Educational retirement—Kindergarten | 2,670.49 | 2,670.49 | |
| 1119.2 Social security—Kindergarten | 1,986.15 | 1,986.15 | |
| 1119.3 Health, accident insurance premiums—Kindergarten | 142.48 | 142.48 | |
| 1120.1 Instructional supplies and services | 1,520.44 | 1,520.44 | |
| 1120.2 Support supplies and services | 1,274.63 | 1,274.63 | |
| 1120.3 Contracted transportation | 861.95 | 861.95 | |
| Subtotal—Budgeted line items | 93,460.47 | 93,460.47 | |
| Nonbudgeted line items: Lunch reimbursements | 58,610.00 | 58,610.00 | |
| Total | 152,070.47 | 152,070.47 | |

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U.S. DEPARTMENT OF THE INTERIOR,
AUDIT OPERATIONS—REGION III,
*Sacramento, Calif., August 1, 1972.*

Mr. C. A. RICHMOND,
*Division of Educational Assistance, Bureau of Indian Affairs, Albuquerque, N. Mex.*

DEAR MR. RICHMOND: Enclosed is a copy of the findings sections on the Johnson-O'Malley Program from our report for the Juneau Area Office, Bureau of Indian Affairs. This copy is furnished as requested this date by Mr. Bert Pappan.

ORVIS R. PAYNE,
*Audit Manager.*

Enclosure.

### AUDIT FINDINGS—JOHNSON-O'MALLEY PROGRAM

The Juneau Area Office, under provisions of the Johnson-O'Malley (JOM) Act, has granted several million dollars to the State of Alaska for the purpose of assisting the State in the cost of educating Alaskan Native children. However, at the time of our review the State was unable to demonstrate that all JOM funds provided by the Area had been properly expended for this educational program. Consequently, the Area Office has no assurance that these funds have been spent to improve the education of Native children in accordance with Federal law, Bureau policy, and the State and Bureau agreements.

The JOM aid to the State has increased from $600,016 in fiscal year 1965, the first year for which records were readily available, to $3,694,500 in fiscal year 1972. Further increases in this aid are expected as the Bureau continues to transfer additional educational facilities and responsibilities to the State.

As a result of several changes made since fiscal year 1969, the Area Office has improved its administrative control over the JOM program within Alaska. These improvements consist of such items as allocating aid primarily to specific educational projects rather than to the basic support of general programs. Also, beginning in fiscal year 1970, the Area has obtained considerably more narrative and statistical budgetary information and reports from the State. Moreover, during fiscal year 1971, the JOM agreement between the Bureau and the State was revised to expand and clarify (1) the Native children's entitlement to public education, (2) the procedures to be followed by the State in requesting and reporting on the use of JOM funds, and (3) the methods by which the Bureau would transfer its rural schools to the State or local governments.

While having made recent improvements in its administration of the JOM program, we believe that additional administrative control procedures are needed to provide assurance that program expenditures are being accurately and properly reported by the State. Under present procedures, the Area has accepted, apparently without question or verification, the State's reported JOM program expenditures. Our review, however, disclosed that such acceptance is a questionable practice. For example, we found that approximately $2,828,000 of reported expenditures were either not expended or not supported by State accounting records. A discussion of these expenditures is presented in the following paragraphs.

1. The JOM contract awards to the State for fiscal years 1969 and 1970 totaled $1,492,600 and $2,594,000, respectively. The State drew these amounts under letters of credit and subsequently reported to the Area that it had spent all but about $22,600 of these amounts on approved JOM activities. The apparent unexpended funds of $22,600 were not used to reduce the fiscal year 1971 letter of credit. Also, State machine listings, which are based on records of yearend expenditures, showed JOM disbursements of only $317,724 for fiscal year 1969 and $1,438,583 for fiscal year 1970. In other words, the State's accounting records show that it spent $2,330,293 less than the amount of JOM funds received during these 2 years. A State official advised us that similar differences existed in prior years.

2. At the end of fiscal year 1970, the State has a reported balance of $159,188 in its JOM reserve account. This balance had originated before 1965, had fluctuated for several years, and had been stabilized at this amount since 1968. In 1971, the State wrote this amount off its books without reporting either the existence of the reserve or its writeoff to the Area Office. As a result, the Area did not have the opportunity to apply these unexpended JOM funds against future program expenses or grant awards.

3. On October 1, 1971, the Area was informed that the State's fiscal year 1971 JOM fund expenditures would total $3,186,838; which is $318,162 less than the amount of JOM funds provided by the Area during this fiscal year. These unexpended funds, which are subject to adjustment, have not been applied against fiscal year 1972 program costs as required by the Bureau and State agreement governing the administration of JOM funds.

4. In June 1971, $19,863 of unused fiscal year 1971 and prior year JOM funds were returned to the State by the Kenai Peninsula Borough and the University of Alaska. These refunds were recorded by the State as additional fiscal year 1972 JOM receipts. The Area Office was not advised of these refunds and, accordingly, did not apply them as a reduction to its 1972 JOM fund commitment to the State.

Alaska Department of Education officials advised us that they do not consider the above $2,807,643, which excludes the $19,863 of refunds from the Kenai and the University, to be unused JOM funds. They stated that they have expended these funds on approved JOM programs, even though this fact is not readily supported by their accounting records. They explained that in prior years, and to some extent in 1971, JOM expenditures were not always charged to the benefiting JOM program. However, they stated that an analysis of total expenditures, which would include those charged to both State and JOM funds, would show that they had spent at least as much on JOM projects as received in JOM aid. Accordingly, they consider the $2,807,643 of unaccounted for funds to be State rather than Federal funds. These officials agreed that the refunds of $19,863 should have been recorded as a reduction to fiscal year 1972 budget or expenditures rather than as a supplement to the 1972 receipts.

In regard to the foregoing matters, Area officials advised during our exit conference that the $19,863 was refunded to the Bureau. These officials also advised that based on our suggestions, they will: (1) notify the State in writing of the need to document that it has properly expended the $2,807,643 of JOM funds, which are currently unidentified in the State's accounting records; (2) reduce future letters of credit for any amounts which the State is unable to document as valid charges to JOM funds; (3) request advice on whether funds made available by such reductions are to be credited to current year appropriations or to the appropriations from which the original payments were made; and (4) verify future reported JOM expenditures by comparing them to the State's accounting records.

We believe that the proper administration of a multiyear, multimillion-dollar program like JOM requires a clear and definite knowledge of how program funds are being expended. But, as demonstrated by our review, this information is not being provided by the State's accounting records or in the financial reports submitted to the Area. As a result, the Area Office has received insufficient data to exert adequate financial control over its JOM program. However, we believe that the actions to be implemented by the Area, if properly performed, will provide the means to gain control over this program. Accordingly, we are not presenting any recommendations at this time.

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[Memorandum]

U.S. DEPARTMENT OF THE INTERIOR,
AUDIT OPERATIONS, REGION III,
*Sacramento, Calif., November 24, 1972.*

To: Commissioner, Bureau of Indian Affairs.
From: Acting Regional Director, Audit Operations, Region III.
Subject: Audit of Johnson-O'Malley Contracts, N00-C-1420-2146 and N00-C-1420-3372 between the Bureau of Indian Affairs and the Arizona State Department of Education.

We have examined accounting records, internal controls, and financial statements relating to costs incurred during fiscal years 1970 and 1971 under contracts N00-C-1420-2146 and 3372 between the Navajo Area Office, Bureau of Indian Affairs (LIA) and the State of Arizona, Department of Public Instruction (now the Department of Education), Phoenix, Arizona.

The contracts, which were negotiated under the Johnson-O'Malley (JOM) Act (25 U.S.C. 452), provided financial assistance to public school districts which educate Indian children residing in dormitories operated by LIA in Holbrook, Flagstaff, Winslow, and Snowflake, Arizona. This assistance totaled $847,275 in fiscal year 1970 (contract N00-C-1420-2146) and $946,881 in fiscal year 1971 (contract N00-C-1420-3372). All contract payments were made to the Department of Education which, in turn, allotted funds to individual school districts.

Our review, completed in September 1972, was conducted at the LIA, Navajo Area Office, the State Department of Education, the office of the Navajo County School Superintendent and at the Holbrook Elementary and High School Districts in Holbrook, Arizona. Our audit of expenditures covered the period of July 1, 1969, through June 30, 1971, and was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting and other records as we considered necessary in the circumstances.

In our opinion, the costs of $666,401 included in this audit were incurred by the two Holbrook school districts in accordance with the provisions of applicable laws, regulations, and terms of the contracts. Costs of $1,127,755 incurred by five other school districts were not audited. Our review disclosed no questioned costs.

JOM contract costs totaled $1,794,156 for the 2-year period of our audit, as follows:

| | Audited costs | Unaudited costs | Total |
|---|---|---|---|
| Fiscal year 1970 | $314, 898 | $532, 377 | $847, 275 |
| Fiscal year 1971 | 351, 503 | 595, 378 | 946, 881 |
| Total | 666, 401 | 1, 127, 755 | 1, 794, 156 |

Details of the audited and approved costs, and the unaudited costs, are provided in the exhibits to this report.

If further information is needed in regard to our audit please contact us at the above address.

ORVIS R. PAYNE.

Attachments.

## EXHIBIT I

### SUMMARY OF AUDITED AND UNAUDITED COSTS FOR CONTRACT N00-C-1420-2146 BETWEEN NAVAJO AREA OFFICE LIA, AND ARIZONA STATE DEPARTMENT OF EDUCATION FOR THE PERIOD FISCAL YEAR 1970

| School district | Total contract costs | Per capita payment | Lunch costs | Parental costs |
|---|---|---|---|---|
| Audited and approved costs: | | | | |
| Holbrook Elementary School District No. 3 | $125,976 | $122,179 | 0 | $3,797 |
| Holbrook High School District No. 3 | 188,922 | 175,252 | 0 | 13,670 |
| Subtotal, fiscal year 1970 audited costs | 314,898 | 297,431 | 0 | 17,467 |
| Unaudited costs: | | | | |
| Flagstaff Elementary and High School District No. 1 | 262,708 | 228,393 | $19,341 | 14,974 |
| Winslow Elementary and High School District No. 1 | 156,072 | 147,976 | 0 | 8,095 |
| Snowflake Union High School | 113,597 | 94,802 | 6,912 | 11,884 |
| Subtotal, fiscal year 1970 unaudited costs | 532,377 | 471,171 | 26,253 | 34,953 |
| Total, fiscal year 1970 audited and unaudited costs | 847,275 | 768,602 | 26,253 | 52,420 |

## EXHIBIT II

### SUMMARY OF AUDITED AND UNAUDITED COSTS FOR CONTRACT N00-C-1420-3372 BETWEEN NAVAJO AREA OFFICE, LIA, AND ARIZONA STATE DEPARTMENT OF EDUCATION FOR THE PERIOD FISCAL YEAR 1971

| School district | Total contract costs | Per capita payment | Lunch costs | Parental costs |
|---|---|---|---|---|
| Audited and approved costs: | | | | |
| Holbrook Elementary School District No. 3 | $145,815 | $141,640 | 0 | $4,175 |
| Holbrook High School District No. 3 | 205,688 | 190,036 | 0 | 15,652 |
| Subtotal, fiscal year 1971 audited costs | 351,503 | 331,676 | 0 | 19,827 |
| Unaudited costs: | | | | |
| Flagstaff Elementary and High School District No. 1 | 300,510 | 263,893 | $19,851 | 16,366 |
| Winslow Elementary and High School District No. 1 | 163,001 | 154,549 | 0 | 8,451 |
| Snowflake Union High School | 132,267 | 114,006 | 6,912 | 11,350 |
| Subtotal, fiscal year 1975 unaudited costs | 595,378 | 532,448 | 26,763 | 36,167 |
| Total, fiscal year 1975 audited and unaudited costs | 946,881 | 864,124 | 26,763 | 55,994 |

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U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
*Juneau, Alaska.*

Re: Appeal and Petition of Molly Hootch et al. (Reconsideration of Bureau Action); Administrative determination.

This is a written decision on an appeal filed pursuant to 25 C.F.R., Part 2, by certain persons named as parties plaintiff in *Hootch* v. *Alaska State-Operated School System*, Civil Action No. 72-2450 (Superior Court, Third Judicial District, State of Alaska).

Petitioners have requested reconsideration and correction of Bureau actions or decisions, which they deem illegal. Specifically, they are protesting the actions of Bureau officials in the execution of a contract with the State of Alaska under the authority of the Johnson-O'Malley Act. Petitioners, on information and belief, are Natives of Alaska and as such, are persons privileged under the Johnson-O'Malley Act and "interested parties" within the meaning of 25 C.F.R. Sec. 2.1(b). Likewise, the State of Alaska, which has been properly served and notified pursuant to Sec. S. 2.11 and 2.33 of C.F.R., is also recognized as an interested party for purposes of this appeal and has been served with copies of the petition, and has responded with an answer.

The administrative record, upon which this determination is based, contains the following documents:

(1) Johnson-O'Malley Contract FY 1973.
(2) "Alaska State Plan," contained in "An Overall Education Plan for Alaska."
(3) Petition of May 25, 1973.

(4) Memorandum in support of plaintiffs' motion for temporary restraining order and preliminary injunction.

(5) Letter from Harvard Center June 13, 1973.

(6) Letter from Harvard Center June 14, 1973.

(7) Letter from Alaska Department of Law August 3, 1973.

Petitioners urge that certain payments which may become due to the State of Alaska not be paid under the FY 1973 J-O'M contract because the contract violates the J-O'M Act (25 U.S.C. Sec. 452) and certain implementing regulations (25 C.F.R., Part 33). In addition, it is apparently alleged that the terms of the contract itself have been violated.

## I

Petitioners urge reversal of the action on the contention that the Secretary of the Interior may not contract with the Alaska Department of Education under the J-O'M Act. (See plaintiffs' brief Sec. III.A, P. 10.)

The Act states that the Secretary may contract with states or their subdivisions "through the agencies of the State." 25 C.F.R. 33.4(a) refines this provision by stating that contracts may be entered into under the provisions of the Act "with the authorities of any State." It has been determined that, under the Act, the Alaska Department of Education is such an agency, and, under the regulations constitutes such an authority. Subsection (b) of the Regulation, cited by petitioners, refers to the subject matter (what) of the contracts rather than the proper contracting parties (who). Moreover, a reading of that section indicates that the program will be based upon the needs of the district but does not require that the contract be entered into with a district. Thusly, a contract entered into between the Bureau and the State might be analogized to a third party beneficiary contract for the benefit of the district. For these reasons, petition is denied to the extent that Sec. III.A, of petitioners' brief is made part of this appeal.

## II

Petitioners' second argument, found in Sec. III.B. of their brief, is, that by proceeding with the contract in question J-O'M funds are being expended on programs which are not "supplemental," in the sense that they do not meet the special needs of Native children and are, therefore, illegally spent. To determine what the limitations on the Bureau are in the expenditure of J-O'M funds, it is necessary to repair to the Act itself, the Regulations, the "State Plan" and finally to the current contract.

The Johnson-O'Malley Act itself is rather broad in its scope and allows funding of not only educational programs but those for medical, agricultural and social assistance as well. Although for purposes of this contract J-O'M funds are being spent only on Native children, there is some evidence in "An overall Education Plan for Rural Alaska" (see p. 21, XII Finance) that the State regards J-O'M money as being available for the general support of school districts which enroll "large numbers of native (sic) students who reside on tax exempt land and who create a significant financial burden to the school districts, a burden that cannot be met with local, State and other Federal funds." However, the Bureau as a matter of administration has limited expenditures under this contract to Native children and it is in recognition of this limitation that various amendments to the required "State Plan" (see 25 C.F.R. Sec. 34) make it clear that the State will provide a "pro-rata share" of dormitory expenses for pupils not receiving financial support from the BIA. (See for instance, Appendix C, Amendment 1, page 2(a) (4).) Contrary to petitioners' claim on page 21 of their brief, that such language is a "code way" of stating that the State will not assume financial responsibility for Natives, it is rather a way of saying that J-O'M money will not be spent on non-Natives.

It appears not to be in dispute that, prior to the amendment in 1958 of PL 874 (the Impact Aid Act, 20 U.S.C. Sec. S. 236–240) J-O'M was the recognized, and perhaps, exclusive, method by which the Federal Government assisted schools which had large percentages of Indian children in their student bodies but which had little or no tax base with which to support their operations. The dispute now presented had its genesis in a 1958 amendment (see PL 85–620) to the Impact Aid Act. When the amendment was codified, 20 U.S.C. Sec. 245 was merely repealed. However, the actual language of the amendment, written into the then existing statute reads:

(1) The term "Other Federal payments" means payments in lieu of taxes, and any other payments, made with respect to Federal property pursuant to any law of the United States other than this Act *but shall not include payments pursuant to contract or other arrangements under the Johnson-O'Malley Act.* (amendment italicized)

In the light of this clear language, it might be questioned whether it is proper to refer to the legislative history at all since, ordinarily, the legislative history is used only to find the intent of ambiguous acts. Moreover, where an agency, charged with the implementation of an ambiguous act, consistently interprets it in a particular way over a long period of time, such interpretation is usually given effect, where it is reasonable. However, it is not necessary to refer to principles of statutory construction for purposes of this appeal, for petitioners' analysis of the legislative history is not persuasive.

It is petitioners' apparent contention that when Congress permitted school districts to receive both J–O'M and 874 money it also placed new restrictions upon the circumstances under which J–O'M funds could be spent, changing the whole character of J–O'M assistance. As has been mentioned, this position is arrived at in the absence of any specific statutory language in either the J–O'M Act or the Impact Aid Act.

Petitioners' position seems to spring from an amendment offered to PL 874 by Representative Metcalf which they state would have allowed school districts to receive certain, undefined "special services" from J–O'M funds while concurrently receiving 874 money. This amendment was apparently rejected in favor of the broader amendment which was finally adopted, and is quoted above. Although the Metcalf idea may perhaps have been incorporated in the amendment, as petitioners suggest, the final amendment seems to go even further. Thus, for instance, the Committee on Education and Labor stated in its report (and cited by petitioners on p. 14) that districts could receive not only 874 money but J–O'M money for "* * * special services *and* for meeting educational problems under extraordinary or exceptional circumstances" (emphasis added). It would appear from this that Congress itself noted the difference between a special program and other exceptional circumstances requiring aid for a general program.

In promulgating regulations pursuant to this new provision, the Bureau incorporated this broader idea, using only the phrase "educational problems under extraordinary or exceptional circumstances" (see 25 C.F.R. 33.4(c)) which encompasses not only "special" programs but "basic" ones as well. Under this phrase the Bureau has funded and continues to fund both types of program, often without labeling them as "special" or "basic."

There is also a suggestion that the words "supplemental aid," used in Sec. 33.4(c) refer to special programs of the type outlined by the petitioners. However, in its application of the regulation, the Bureau appears never to have regarded this phrase as creating a separate category of aid (i.e., as supplemental aid *versus* basic support) but rather as a reference back to the exhaustion of 874 money. Thus, in the regulation, it would be reasonable to substitute "additional aid" or "further aid of the same type" for the existing term "supplemental aid". It seems to us that one would be reading something into the regulation to substitute a phrase to the effect of "special programs not provided by a State's basic educational program". Clearly, the Bureau has not made such a distinction in that where it has found an exhaustion of 874 resources and extraordinary or exceptional circumstances, it has given additional (supplemental) J-O'M aid of the same character as 874 aid to school districts even if such aid goes to basic support. Thus, even if petitioners' construction of the regulation was conceeded as a possibility, the agency applying the regulation has chosen to proceed under an equally, or more valid construction or interpretation.

Finally, on this point, petitioners argue on pages 14 and 15 of their brief that the legislative intent of Congress included an intent to avoid duplication of use between Impact Aid (874) and J-O'M. Even if such history is properly referred to, and even if petitioners' view of the history is correct, it still remains to be shown that piling J-O'M money *on top* of 874 money is in fact duplication of the type sought to be avoided. In an analogy, if a young man asks his father for $1,000 to buy a $1,000 car (and gets it), then, without mentioning the first thousand, turns around and asks his uncle for $1,000 to buy the same car (and gets it) we have an instance of duplication which should be avoided. However, if the father only gives the boy $750, and the uncle may find a problem of "extraordinary or exceptional" circumstances and properly grant "supplemental aid" of $250 to meet the purchase price. (Carrying the analogy back a few paragraphs, petitioners would argue that the uncle (BIA) could only assist the boy in the purchase of fancy seat covers, hub caps and similar "extras", since these would be "supplemental" to the "basic car.) Under any circumstances, the so-called anti-duplication section of 874 quoted above clearly exempts J-O'M from is coverage by the 1958 amendment. The Senate Report, which is set forth as legislative history (on page 3412 of U.S. Code Congressional and Administrative News—85th Congress Vol. 2, 1958), states only that duplicate payments under the two laws would be avoided by "taking account" of PL 874 payments in making determinations under the provisions of the J-O'M Act (see 3415 and 3433). Thus, BIA in approving the program expenditures, and Congress, in approving the appropriations, may be assumed to have considered the 874 payments in authorizing the J-O'M payments and have found them not to be duplicating.

That J-O'M money may be used for basic support is also affirmed by the decision of the Court in *Natonabah* v. *Bd. of Education* 355 F. Supp. 716 (D.C. New Mexico 1973). There the Court stated that the regulation might under certain circumstances allow J-O'M funds to be used for basic support programs (p. 726). The Court apparently affirmed the plaintiffs' interpretation that in the absence of extraordinary or exceptional circumstances J-O'M money would have to be spent on the special needs of Indian children. The implied converse statement is that in the presence of exceptional circumstances J-O'M money may be spent on something other than special needs, viz., general needs or "basic support." Thus, it would seem that the "duplication" argument presented in this appeal has been rejected by the *Natonabah* Court and should likewise be rejected in this appeal. It is the Bureau's position that the situation in which the rural Alaskan Native School child finds himself is exceptional and extraordinary and that the Bureau may properly supplement exhausted State and 874 funds with J-O'M money, regardless of the label placed upon such aid.

Petitioners' brief alleges that the boarding home program is considered by the State to be a "supplemental" program and therefore is ineligible for funding as an extraordinary or exceptional circumstance program under the J-O'M regulations. This argument, however, depends upon a substitution of terms for logical consistency. A program which is supplemental to the State's basic educational program is not necessarily one which fulfills a special Native need and is a supplemental (Native) program of the type discussed in *Natonabah*, as for instance a special language program for Natives.

Prior to the boarding home program, Native children in rural areas were either receiving inadequate correspondence courses or were being sent far from their homes to BIA schools in other states. (The State's "basic" program.) This situation, in the eyes of the Bureau and of the State, constituted an extraordinary or exceptional educational problem for the Native children who constitute the vast majority or rural Alaska school age children. To mitigate the effects of this situation the State and the Bureau joined together, in the State Plan, to provide a supplemental program for rural youngsters. This program is the present one for boarding children in or near regional boarding schools. It has not been characterized in either the contract or the State Plan as a "special needs" program, but may be considered by the State to be supplemental to its basic educational program.

## III

Petitioners argue that the FY 1973 funding of the boarding home and dormitory programs constitute racial discrimination by the State and that J-O'M Regulations, certain statutes, and the contract itself are thereby violated. Primarily, this allegation depends upon a finding of facts for resolution, however, we cannot agree with petitioners' findings in this regard. We find that in FY 1973, the State Legislature made $334,000 available for the boarding home program. Recent figures show that of 1087 students in the boarding home program some 75 were non-Native or Caucasian. This is approximately 6.9% of the number of students in the boarding home program. The average cost for travel and boarding costs in this program is $1,695 per student ($165 travel, $1,530 boarding care). If the State were providing travel and boarding only for non-Natives, their contribution to the total program would have been only $127,125; however, the State funding provided $206,875 beyond this "pro-rated" share, and constitutes a greater percentage of the total financial contribution to the program than the percentage on non-Natives participating in it.

The Bureau contracting and financial procedures require that the State maintain separate accounts for J-O'M expenditures and therefore required the State to adjust their accounting records accordingly. This may account for the State showing what seems to be discrimination in the expenditure of travel and boarding costs in the boarding home program. Future contracts, if any, will be reviewed with this problem in mind.

Petitioners' also suggest that the State educational system as a whole is discriminatory and that the contract should not be honored for that reason. Although we note petitioners' allegations in this and will continue to monitor the *Hootch* litigation, and be aware of other developments in this regard, we do not find them sufficient to convince us that the State educational system is, as a matter of law, discriminatory. Indeed, petitioners themselves state that they have not completed a full analysis of the composite statewide pattern (page 3 letter June 14, 1973). Petitioners' evidence that a discriminatory pattern may exist will be noted awaiting a more complete analysis.

## IV

For the reasons set forth, petitioners' appeal is denied. Petitioners, or any other interested party, are advised that this determination may be appealed in writing to the Secretary of Interior pursuant to Subpart C of 25 C.F.R., Part 2, within twenty days of the date of the mailing of this determination.

Morris R. Thompson, *Area Director.*

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## Appeal and Petition of Molly Hootch, et al. re Administrative Determination of BIA, Juneau Area Office, August 15, 1973

## MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITIONERS APPEAL OF BIA ADMINISTRATIVE DETERMINATION

### Introduction and Background

This is an appeal to the Secretary of the Interior pursuant to 25 C.F.R., Sec. 2.21, from an administrative determination by the Director of the B.I.A. Juneau Area Office. It concerns the Bureau's FY 73 contract with the State of Alaska for educational funds under the Johnson-O'Malley Act (JOM), which petitioners contend to be in violation of various statutes and regulations.

Under normal circumstances, decisions by Area Directors are appealed first to the Commissioner of Indian Affairs and then to the Secretary of the Interior (25 C.F.R. Sec. 2.3). But because the Office of the Commissioner is now vacant, and because the Area Director's decision directs this appeal route, this appeal is made directly to the Secretary. Petitioners urge the secretary to exercise now the jurisdiction that is ultimately his, because there is no indication when the position of B.I.A. Commissioner may be filled. Copies of this petition are also being sent to the Office of the Commissioner, however, in the event that it is determined that this appeal must first proceed through his office.

Petitioners in this appeal are persons named as plaintiffs in *Hootch* v. *Alaska State Operated School System*, Civil Action No. 72-2450 (Super. Ct., 3rd Jud. Dist. of Alaska). All are Alaskan Natives and are accordingly the intended beneficiaries of the Johnson-O'Malley Act. As such, they are, and the Juneau Area Director found them to be, "interested parties adversely affected" by the Bureau's action.

The petitioners request reconsideration and correction of a Bureau action which they believe to be improper, illegal, and discriminatory: the Bureau's execution of the FY 73 contract with the State of Alaska under the authority of the Johnson-O'Malley Act. Petitioners urge that certain payments which may become due to the State of Alaska under the FY 73 JOM contract not be paid for two reasons: (1) the proposed use of funds flatly violates the Johnson-O'Malley statute (25 U.S.C. Sec. 452) and certain implementing regulations (25

C.F.R. Part 33). And (2) the proposed use of the funds will make the Department an accomplice in racial discrimination explicitly prohibited by the Civil Rights Act of 1964 (42 U.S.C., Sec. 2000d. et seq.) and regulations issued under it (42 C.F.R., Sec. 17.2 and 17.3(b)(1) et seq.).

At the very outset, petitioners wish to call the Secretary's attention to the concept of "supplanting," which plays a central role in this appeal. "Supplanting," refers to a school district's use of specially ear-marked federal funds (i.e. categorical aid) to pay for a district's basic educational program. When supplanting occurs, the federal funds are used as a substitute for local funds in order to provide services which would or should be provided out of regular state or local revenues. The concept of supplanting only comes into play when the federal funds are intended (like Title I or Johnson-O'Malley moneys) to be used as "categorical" aid. "Categorical" or supplemental aid is federal aid specifically provided to be used solely for special programs (categories) that are above and beyond the district's basic or normal educational program.[1] Any use of "categorical" aid to finance basic operational programs (thus replacing or supplanting the non-federal funds which would normally pay for such programs) is unlawful. The concept of supplanting does not apply to "general" federal aid, such as Impact Aid, which is intended and designated by law as basic aid to school districts to be used to help finance their normal school operations.[2]

The lawful financing arrangement for local school districts, then, is for basic support funds (local, state, federal Impact Aid, and miscellaneous others) to be spent to provide equal services among all students throughout the district. Categorical aid (Title I and Johnson-O'Malley) must be spent only to add to (or supplement) the basic school program of those students who are specifically provided for as the beneficiaries.[3] Petitioners believe that Alaskan officials have violated both requirements: both basic support monies and JOM funds have been spent in a discriminatory manner; and categorical aid has been used illegally to pay for basic support programs, thereby supplanting non-federal funds.

Petitioners submit that the legal issues presented by this appeal can best be viewed as manifestations of a larger phenomenon: the State of Alaska's failure to treat Alaska Natives as citizens of the State, and its failure to afford them the benefits conferred upon white citizens.

In its official publications, the State acknowledges that Alaska Natives are citizens, that the state constitution requires the State to "maintain a system of public schools open to all children of the State," and that this State responsibility extends to Alaska Natives. [See, e.g. *An Overall Education Plan for Rural Alaska*, Department of Education, revised ed. 1968, pp. ii–iii; *A Prospectus for Rural Education in Alaska*, Alaska State Board of Education, 1969, pp. 11, 13, 17; *Small Secondary Schools Administrative Manual*, Alaska Department of Education, 1971, p. 1.] These publications proclaim that, although the State has responsibilities for the education of Alaska Natives, it will discharge the financial obligations which this responsibility entails only to the extent that it sees fit. [See *An Overall Education Plan for Rural Alaska*, pp. ii–iii.] In short, the State has followed the practice of treating Alaska Natives as second class citizens, providing a token amount of State support for their education, and diverting federal education funds—most of which were designed to meet special educational needs over and above the basic school program—to make up for monies which the State has been unwilling to spend.[4] In bringing this administrative proceeding, petitioners seek to halt some of these discriminatory practices.

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[1] A school district's basic or normal educational program is often defined in its own literature in descriptions of regular (as opposed to special) programs it offers to its students. Sometimes it is described in submissions the district makes to various state or federal authorities, and other times it is a minimum standard required by state law or federal constitutional holdings. *See, e.g. Griffin* v. *School Board of Prince Edward County*, 377 U.S. 218 (1964). While the difference between a regular and a special, or a basic and a supplemental, school program is inherently fraught with semantic vagaries, it is safe to say that instruction by a certified teacher in the subjects required by the education laws of most states, to all school age children, as defined by most states' education laws, is the bare core of every district's "basic" program. How much more is included in the basic program must be resolved on the basis of the aforementioned factors.

[2] Although not directly involved in this appeal, it should be noted that federal Impact Aid is intended to aid local school districts but not states. See, 20 U.S.C. 240(d)(2). *Shepard* v. *Goodwin*, 280 F.Supp. 869 (E.D. Va. 1968); *School District No. 3* v. *Jorgenson*, 293 F.Supp. 849 (D.S.D. 1968); *Hergenreter* v. *Hayden*, 295 F.Supp 251 (D. Kan. 1968); *Carlsbad Union School District of San Diego County* v. *Rafferty*, 300 F. Supp. 434 (D.D. Cal. 1969).

[3] And where, as here, the intended beneficiaries of categorical aid are members of a racial group which has been the victim of past discrimination, "supplanting" is also a form of racial discrimination.

This appeal and petitioners' contentions do not arise from a vacuum. They must be viewed against a continuing historical backdrop of State discrimination against Natives in the provision of educational opportunity. The Nelson Act of 1905, 48 U.S.C. Sec. 169, established a dual school system in Alaska. The Territory assumed full responsibility for the education of white children and "children of mixed blood leading a civilized life." The education of Indians and Eskimos remained the responsibility of the Department of the Interior.

In 1908, the case of *Davis* v. *Sitka School Board*, 3 Alas. 481, illuminated the manner in which the dual school system operated. Two children of mixed blood—whose father was an "industrious, law-abiding, intelligent Native," who operated a store in Sitka, paid the Alaska business and road tax, spoke and wrote English, and who attended the Presbyterian Church—were denied enrollment in the Sitka Schools on the grounds that they were not living a sufficiently civilized life. The judge ruled that the students had failed to prove that they "had exchanged the old, barbaric, uncivilized environment for . . . an advanced and improved condition of the mind. . . ." Thirty-five years later, Territorial Attorney General Henry Rowden expressed his "fear that [this] yardstick, if applied, would in many instances exclude [from school] a child in whose veins or those of his parents or ancestors no drop of mixed blood can be found." Alas. Atty. Gen. Opinion, Sept. 7, 1943, at 4.

This 1943 Attorney General's observation was itself occasioned by the Territory's continued refusal to furnish school facilities for children of pure Native blood. In an Attorney General's Opinion that cited *Davis* v. *Sitka*, *supra*, *Sing* v. *Sitka School Board*, 7 Alas. 616 (1912), and the 1917 Organic Act, 43 U.S.C. Sec. 170, Attorney General Rowden spelled out law which petitioners seek to have enforced, in part, through this petition:

> The Territory alone is responsible for the education of its youth; to provide for the schooling of its children is a governmental function of the highest order that is cast upon the State or Territory; it alone and not the United States must defray the cost thereof; it must provide equal facilities and opportunities for all its children; it cannot give bread to one class of citizens and stone to the other, the more so when all are paying taxes for carrying into effect the governmental functions cast upon it. [At 11–12].
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> That these [Native] children are entitled to an education is not denied; they and their parents are citizens of the United States and residents of Alaska. (See Sec. 41, Title 8, U.S.C.) Indians and Eskimos, both male and female, pay the Territorial school tax and their property is subject to the same taxation as is that of whites, and under the Fourteenth Amendment and the Civil Rights Act, are entitled to the equal protection of the Territory's laws. As the Territory levies a school tax and other taxes upon all its residents and uses a portion of them to secure its children an education it cannot be permitted to say that it will bestow its bounty upon some children and withhold it from others [At 12].

Nonetheless, that unequal bestowing of the State's educational bounty, which the Territory's chief lawyer declared illegal 30 years ago, remains a common practice. Federal monies under the 1973 JOM contract, which petitioners here seek to divert to lawful ends, will become part of this illegal and discriminatory pattern, and the B.I.A. will become an accomplice to racial discrimination, unless the Secretary of the Interior rules in this appeal that new uses must be found for Alaska's JOM allotment.

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[4] Petitioners reject any argument to the effect that limited resources available to the State can require or justify racial discrimination against Natives. Rather, the state must reallocate normal resources available to it on a non-discriminatory basis.

Some federal funds may, of course, be used to provide education for Natives. It is entirely appropriate, for example, for the federal government to finance certain school construction. See, e.g., 20 U.S.C. 631 et seq. Similarly, the Bureau of Indian Affairs may turn over federal school facilities to the State, 25 U.S.C. 276; 25 C.F.R. 33.6; and federal Impact Aid Funds may be used by local school districts to pay a portion of the basic cost of education. 20 U.S.C. 236 et seq. But petitioners do demand that federal categorical aid be spent only for the purposes authorized by law.

## STATEMENT OF FACTS

Approximately 15,500 Native children are enrolled in the public elementary and secondary schools of the State of Alaska. The largest concentration of Natives (5500) attend school in the State-Operated School district: 2400 other attend school in Anchorage. 1200 attend in Fairbanks, and the remainder are enrolled in other "District" schools.[5]

The racial composition of the District schools is approximately 83% Caucasian and 17% Native. The racial composition of the State-Operated School District (SOS), exclusive of the 99% white On-Base schools, is 77% Native and 23% Caucasian.

Although practically all elementary age children in the SOS (both white and Native) are presumed to have daily access to a school program run by either the state or the B.I.A., the same is not the case for students of secondary school age. As State and B.I.A. officials stated after a March 1962 joint meeting in Washington D.C.: "There exists today a serious deficiency in the overall educational program in Alaska, particularly with respect to children of high school age who, for lack of facilities, are not in school." [*Agreement of Understanding on Educational Policies*, B.I.A. and the Alaska State Department of Education, March 1, 1962.] The Governor's Committee on Education, reporting that the State offered secondary programs in only 9 of the 99 communities in which it operated elementary schools, reported in October 1968 that "the lack of secondary school facilities is obvious." [*An Overall Education Plan for Rural Alaska*, Governor's Committee on Education, October 1, 1968.]

In order to compensate for its failure to provide local secondary schools, the Alaska State Department of Education operates three Regional High Schools in Kodiak, Nome-Beltz, and Bethel. During the 1972–73 school year, the Alaska Department of Education (ADE) Division of Regional Schools and Boarding Home Program operated a dormitory connected with each of the three regional schools. It also contracted with 900 families in 26 communities to provide lodging (room and board) for other students who attended secondary school away from their home community. Although approximately 87% of the students served by these programs were Alaskan Natives (Annual Report, Division of Regional Schools and Boarding Home Program, 1971–72), the goal of the program is:

> To provide academic and domestic placement for *all* Alaskan secondary students within the State, as well as educational programs that are relevant to the needs of Alaskans. [State Budget Submission, FY 72 (emphasis added)].

In short, these programs (the Regional Schools and Boarding Home Program) constitute the State's basic educational program for all secondary students (white as well as Native) who have no secondary education in their community of residence.[6] Nonetheless the State paid for less than 7% of these programs ($258,700 of $3,843,600) in fiscal 1972, and less than 22% ($1,211,000 of $5,607,000) in fiscal year 1973. The majority of the funds, 74% in FY 72 ($2,834,970), and 78.5% in FY 73 ($4,396,000), came from the federal Johnson-O'Malley Program. And in many instances, the JOM funds paid for programs and personnel which benefitted white as well as Native children.

The FY 73 JOM contract for Alaska provides for most personnel employed by the Regional Schools and Boarding Home Program to be funded entirely by JOM. Their service is not limited exclusively to Native students, nor do they perform unique services designed to meet a specific educational need of Native students. An example is the Boarding Home Program Supervisor, whose function is to administer the statewide Boarding Home Program and supervise its staff. (FY 73 Budget Submission, p. 00087.) Other personnel from clerk-typists to home-school coordinators are also funded entirely by JOM. (FY 73 Budget Submission, p. 00088–91.)

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[5] "District" schools are schools located in and operated by geographic areas (mostly urban) which are formally organized into boroughs (counties) and school districts. The remainder of the state is administered as "the unorganized borough" or the State-Operated School System.

In addition to the Native students mentioned above, another 6600 Native students attend federal B.I.A. schools—either B.I.A. elementary schools in their local communities, or B.I.A. boarding schools, some of which are as far away as Oregon and Oklahoma.

[6] Approximately 52 additional students were enrolled in correspondence courses at the end of the year

The same pattern exists in the State's budget for financing Regional Dormitories. For example, the "Capital Maintenance Foreman"—with responsibility for the "physical maintenance of the total regional school complex in Bethel which will include a 200-student dormitory and a 600-student comprehensive high school, staff quarters, and auxiliary buildings"—is funded entirely by JOM. This employee is also given the responsibility of supervising "any other State building as requested by the Division of Buildings." (FY 73 Budget Submission, p. 00103.) Other employees funded exclusively by JOM include Maintenance Mechanic I (p. 000096); Dormitory Director (p. 00097); Dormitory Counselor (p. 00098); Dormitory Nurse (p. 00099); Activity Supervisor (p. 00100). No document known to the petitioners indicates any similar positions supported by State monies.

This situation of the Regional Schools and the Boarding Home Program being funded in FY 73 primarily by JOM is the latest step in an evolving process by which the State sought to fund these programs first by one, then by another, and now by still another, federal funding service. Originally, the Boarding Home Program was funded partly by federal Title I monies, which are designated by the Elementary and Secondary Education Act of 1965 to be used only to meet the special educational needs of educationally deprived children, and never to supplant state or local funds. 20 U.S.C. Sec. 241a; 45 C.F.R. Sec. 116.17(g)(h). During an HEW preliminary audit, which questioned various state programs totaling $3,900,000, the State discontinued use of Title I money for the Boarding Home Program in 1971. (FY 73 Budget Submission, p. 00074.) Federal Impact Aid funds were also used to fund a part of this program. But because state, rather than local, use of Impact Aid monies is prohibited by statute and an unbroken line of case law,[7] the State soon discontinued the use of federal Impact Aid for the Regional Schools and Boarding Home Program. In FY 73 it replaced Impact Aid funding with JOM funds. (FY 73 Budget Submission, p. 00074.)

In the following pages petitioners argue that many of the considerations which made it improper for the State to operate the Regional High School and Boarding Home Programs with Title I and Impact Aid monies apply with equal force to JOM funds. Petitioners argue that: (1) JOM funds may not supplant State or local monies and must be used to meet the special educational needs of Native students, except in exceptional circumstance not present here; (2) the State's provision of financial support for Native students at a lower level than that provided for white students constitutes racial discrimination prohibited by the Civil Rights Act of 1964; and (3) JOM funds, like Impact Aid monies, may not be spent directly by a State Department of Education but must be used to assist local school districts.

## ARGUMENT

### I. JOHNSON-O'MALLEY FUNDS MUST BE USED TO PROVIDE SPECIAL SUPPLEMENTAL EDUCATIONAL SERVICES, EXCEPT UNDER EXCEPTIONAL CIRCUMSTANCES NOT PRESENT IN ALASKA

#### *A. Current Johnson-O'Malley Regulations and the B.I.A. Manual Provide that Johnson-O'Malley Money May Normally Be Used By School Districts Receiving Impact Aid Only As "Supplemental" Aid for Special Services.*

As originally passed in 1934,[8] the Johnson-O'Malley Act (JOM) authorized the Secretary of the Interior to enter into contract with states "for the education, medical attention, agricultural assistance, and social welfare" of Indians. 25 U.S.C. Sec. 452. Pursuant to 25 U.S.C. Sec. 454, the Secretary promulgated regulations, which are now found in 25 C.F.R. Part 33.

It is undisputed that the sweeping language of the statutory provisions have been limited by more narrowly drawn regulations; and these regulations have been amended from time to time as new programs were enacted to provide federal financial support for the education of Indian children. No one disagrees, for example, that JOM monies are now limited to "the *education* of Indian children" (broadly construed), even though the language of the Act provides money for medicine and agricultural assistance as well. 25 C.F.R. Sec. 33.4(a). Similarly, there is no disagreement that the 1958 amendment of the federal Impact Aid law (P.L. 874), and the subsequent amendment of the Interior Department's JOM regulations (the addition of 25 C.F.R. Sec. 33.4(c)), resulted in changes in the administration of JOM monies which lie at the heart of this dispute. Accord, Juneau Area Director, Administrative Determination, p. 4. Accordingly, a full presentation of the evolution of the Johnson-O'Malley Regulations may provide the basis for an accurate understanding of what the provisions and phraseology of the current regulations mean.

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[7] See, 20 U.S.C. 240(d)(2). *Shepard* v. *Goodwin*, 280 F.Supp. 869 (E.D. Va. 1968); *School District No. 3* v. *Jorgenson*, 293 F.Supp. 849 (D.S.D. 1968); *Carlsbad Union School District of San Diego County* v. *Rafferty*, 300 F.Supp. 434 (D.D. Cal. 1969).

[8] And as amended in 1936 by P.L. 638, 74th Cong.

When the Johnson-O'Malley Act was enacted in 1934, its primary aim was to assist Indians who were "to a considerable extent mixed with the general population." Senate Report 91-501, 91st Cong., 1st Sess., pp. 38–44, 133 (1969). In subsequent years, however, pressures by reservation Indians, the primary constituents of the B.I.A., resulted in the Interior Department regulations being changed to reverse the original thrust of the Act. Accordingly, JOM monies were used to assist with the education of reservation Indians, and the basic regulation, by 1950, was 25 C.F.R. Sec. 33.4(b). It channeled JOM funds to school districts which faced an unusual financial burden stemming from "the presence of large blocks of non-taxable, Indian-owned property in the district and relatively large numbers of Indian children" in the schools. In short, JOM money operated in that period somewhat in the manner that Impact Aid operates today. JOM payments were payments made by the federal government to local school districts in lieu of the local real property taxes.

In 1950, Congress enacted P.L. 874 (the Impact Aid Law, 20 U.S.C. Sec. 236–40), which gave federal payments in lieu of taxes to local school districts which enrolled large numbers of children who lived on non-taxable federal lands, primarily military bases. Federal lands already receiving other federal aid were excluded from the Impact Aid law, so that JOM and Impact Aid were deemed mutually exclusive. 64 Stat. 1100, Sec. 2. Another section of the Act expressly excluded Indian children from it. 64 Stat. 1108, Sec. 9 (2). A third section was a non-duplication provision, which prohibited the use of appropriations to other government agencies for the same purposes as Impact Aid appropriations. 64 Stat. 1108, Sec. 8(d). Thus, JOM money continued to constitute a kind of Impact Aid for Indian reservations during this period.

A 1953 amendment to the Impact Aid Law deleted the express exclusion of Indian children, cited above, and a new section was added to the Act. Section 10(a) provided procedures for allowing Impact Aid for Indian children: "the Governor in any state may elect to have the provision of this section applied to such state . . ." The Bureau of Indian Affairs continued to interpret this amended law as making the two programs (JOM and Impact Aid) mutually exclusive, with the Governor of each state electing coverage of one or the other law. From 1953 to 1958 it refused Johnson-O'Malley Aid to any state that accepted Impact Aid funds in Indian areas.[9] During this period the B.I.A.'s interpretation of the amended Impact Aid law was challenged by the U.S. Office of Education. U.S.O.E. urged that the amendment be interpreted as precluding the provision of JOM funds for (in its words) "normal school services," but permitting them to be spent for "special extra-educational payments." *Hearings on H.R. 6078 Before the Comm. on Educ. and Lab.*, H. Rep. 83rd Cong., 1st Sess., June 1953, pp. 146, 342–47. This remained U.S.O.E.'s position through 1958. *Hearings on Proposed Amendments to P.L. 815 and 874, 81st Cong. before the Comm. on Educ. and Lab., H.Rep., 85th Cong., 1st and 2nd Sess., 1957–58, p. 66.*

The Interior Department also promulgated 25 C.F.R. Sec. 33.4(c) in 1958:

> When school districts educating Indian children are eligible for Federal aid under Public Law 874, 81st Cong. (64 Stat. 1100), as amended, supplemental aid under the Act of April 16, 1934 [JOM] supra, will be limited to meeting educational problems under extraordinary or exceptional circumstances.

This history of the evolution of JOM regulations is recited at length to make it clear that the intent of Congress in 1958 in authorizing Impact Aid for Indian children included the intent to avoid duplication of Impact Aid and JOM funds. Because Impact Aid is intended to support normal school operations, JOM funds are to be used normally as supplemental (i.e. categorical) aid to provide "special services," i.e. programs above and beyond the basic school operations of the district. This was the meaning of the House Committee Report, cited *supra*, p. 13, which spoke of the "significant change" to the use of JOM payments for "special services." The two exceptions to this arrangement—school districts where JOM can be used for basic operating expenses—are school districts which do not receive Impact Aid (none of which are involved in this appeal), and school districts which have "extraordinary or exceptional circumstances." But petitioners insist that JOM funds must be presumed to be supplemental aid, unless one of these two exceptions are demonstrated to exist.

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[9] The only exception appears to be the State of Oklahoma, which the B.I.A. gave JOM funds, even though it was also receiving Impact Aid for Indian children. *Hearings on Proposed Amendments to Public Law 815 and 874, 81st Cong., before the Comm. on Educ. and Lab.*, pp. 730–32.

Another relevant regulation is 25 C.F.R. Sec. 33.5(d). This Interior Department Regulation requires that Indian children in a school district receive their fair share of all other general aid as a condition precedent to the receipt of JOM funds. This regulation can only be satisfied by a supplemental program.

This statement of the law governing the disbursement of JOM funds also conforms to the B.I.A.'s Indian Affairs Manual, which is the Bureau's official guide to the execution of JOM contracts.[10]

In 1958, the BIA supported an amendment to P.L. 874 to allow individual school districts, rather than the Governor of each state, to make the choice between 874 and JOM funds. Representative (now Senator) Metcalf introduced an amendment to this bill designed to

> tak[e] care of these Indian children just like any other children on a formula basis [under Public Law 874] and at the same time being able to contract for those needy Indian children under special services under the Johnson-O'Malley Act. *Id.* at 732.

In testimony on this bill the BIA insisted upon assurances that the federal government not provide duplicate funds for the same purposes. *Id.* at 730–32.

The Act finally passed, P.L. 85–620, incorporated the Metcalf idea. Section 201(b) of this enactment amended the Impact Aid law to except "payments . . . under . . . the Johnson-O'Malley Act" from its original anti-duplication provisions. The House Committee report sets out the intention of this amendment:

> H.R. 11378 makes *a significant change in* the treatment of school districts educating Indian children, by enabling them to accept payments under Public Law 874 without forfeiting the right to obtain payments under the Johnson-O'Malley Act *for special services and for meeting educational problems under extraordinary or exceptional circumstances.* H.R. 11378, in amending Public Law 874 in this connection, prevents any duplicate payments for the same services. H.R. Rep. 1532, Comm. on Educ. and Lab., 85th Cong., 2nd Sess., March 19, 1958, p. 3 (emphasis added).

The Interior Department's budget request for JOM money for the following year (FY 1960) decreased by 4.3 million dollars, which was explained in the Department's budget justification as follows:

> These costs were borne in 1958 by the Bureau but will be borne by the Department of Health, Education, and Welfare in the [coming] budget year. . . . Johnson-O'Malley aid will be . . . limited entirely to districts not qualifying for Public Law 874 aid and to meeting the needs under extraordinary and exceptional circumstances when the district is eligible for Public Law 874 funds. *Department of Interior and Related Agencies Appropriations for 1960, Hearings before a Subcomm. of the Comm. on Approp.,* H Rep., 86th Cong., 1st Sess. 1959, pp. 732–33.
>
> Further supplemental aid under the Johnson-O'Malley program *will be limited to meeting educational problems under extraordinary and exceptional circumstances including special services to Indian children* that may best be met under an education contract. 62 I.A.M. 3.2.8(A) (emphasis added).

The same provision provides that JOM funds may be used "for general school operations" only in "extreme hardship districts" which educate

> a substantial number (or percent) of Indian children and *where all sources of revenue* including the the entitlements under all applicable sections of Public Law 974, as amended, *are insufficient for general school operations*. . . . 62 I.A.M. 3.2.8(A) (emphasis added).

The emphasized portion of this quotation—that "hardship" districts (where JOM may be used for basic operating expenses) are defined as those which have exhausted all other sources of revenue—is a fact that is central to this appeal, and is discussed further in Part 3, below.

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[10] The headnote to the section of the quoted passages, Section 3.2, *"Negotiation and Execution of Contracts,"* states that "Contracts for the education of Indian children in public schools will be negotiated and executed in accordance with the following instructions . . . .

Another part of the B.I.A. Manual also points to the supplemental nature of JOM funds and the intention that they be used to meet the special educational needs of Indian children. The "factors to be considered in justifying need and computing amounts of aid" include

> F. *Unique program needs* of Indian children, and
>
> G. *Immediate program objectives* as pertaining to the education of eligible Indian children in the State. 62 I.A.M. 3.2.4, "Eligible School Districts" (emphasis added).

In other contexts as well, the Bureau and the State of Alaska have acknowledged that the proper use of JOM monies is the one which petitioners urge here. In its 1972 booklet, *Statistics Concerning Indian Education*, the B.I.A. states (p. 2) that P.L. 874 money from the Department of HEW

> is available to meet partial costs of *normal* school operation. Additional supplemental aid for the education of Indian children under the Johnson-O'Malley program is limited to . . . districts meeting educational programs under extraordinary circumstances, including *special services and special programs designed to facilitate the education of Indian children* (emphasis added).

Perhaps the most telling proof of this point, however, are the numerous instances in which the State (sometimes in conjunction with the Bureau) adopts and incorporates petitioners' view into its own documents. In the Alaska State Plan for the administration of JOM funds, for example, the State and the Bureau agree that the 1958 amendment to P.L. 874 created a new basis on which the funds were to be provided. The plan states that: "Funds thus provided under the Johnson-O'Malley Act must not duplicate Public Law 874 funds but may supplement when exceptional or extraordinary circumstances exist." Alaska State Plan, Nov. 15, 1965. Although the state plan was amended in 1965, 1966, 1967, and twice in 1968, this basic statement of the basis on which Johnson-O'Malley funds would be provided has not been altered in any respect. Again, in its 1972 Budget Submission, the State designates JOM monies for "compensatory and supplementary services." And again, in its "Criteria for JOM Project Selection," the State provides that "the proposed program or service *must supplement and not supplant* the instructional program for which the local education agency has a responsibility." (emphasis added). Similarly, the sworn deposition of the state officer responsible for administering the JOM Program reiterates that JOM funds in Alaska are to be used for supplemental purposes, not basic support. *Hootch* Deposition of Kenneth Grieser, pp. 41–42.

All of these factors—federal regulations (especially 25 C.F.R. 33.4(c), the B.I.A. Manual, and State documents—consistently proclaim that JOM money, since 1958, is to be used as supplemental rather than basic aid except under "extreme hardship" circumstances. (These circumstances are discussed in Part C, below.)

In his Administrative Determination, the Juneau Area Director agrees (p. 4) that there is no dispute over the operation of JOM prior to 1958, but "the dispute now presented had its genesis in a 1958 amendment (see P.L. 85–620) to the Impact Aid Act." In the face of much of the evidence restated here, the Area Director rejected petitioners' claim that Congress, in 1958, "placed new restrictions upon the circumstances under which JOM funds could be spent, changing the whole character of JOM assistance" (p. 5). The Area Director's rejection of petitioners' urgings is based on several misunderstandings of the nature of JOM assistance. These include the character of eligible recipients, as well as the failure to recognize the dichotomy between the "normal" use of JOM funds and what is allowed under the "exceptional circumstances" of "extreme hardship."

To begin with, the Area Director implies (on page 4 of his ruling) that JOM money may be used for non-Native, as well as Native students. He finds "some evidence" that this is the State of Alaska's position also, but finds that "the Bureau *as a matter of administration* has limited expenditures *under this contract* to Native children" (emphasis added). In fact, there is no authority anywhere in law which suggests that JOM monies can be spent on non-Natives. The original JOM Act authorized contracts for the education "of *Indians*," and nowhere provides any money for non-Indians. The 1936 amendment to the Act included the exact same language. The regulations under the Act provide specifically for contracts "for the education of *Indian* children of one-fourth or more degree Indian blood." 25 C.F.R. Sec. 33.4(a) (emphasis added). Similarly, the Indian Affairs Manual states that "children eligible for consideration shall include only those who possess one-fourth or more degree of *Indian blood* . . . ."

62 I.A.M. 3.2.5 (emphasis added). The Area Director's suggestion that the Bureau's contract with the State is what limits JOM monies to Native students reveals a basic misunderstanding of the rules which govern the disbursement of JOM monies.

Another basic misunderstanding concerns the purpose for which JOM monies may be spent.[11] At many points in his ruling, the Area Director confuses the JOM exception with the JOM rule. He reasons that JOM monies may be spent for normal school operations in districts where exceptional circumstances *do* exist (which petitioners agree with in full). But he then jumps from there to the non sequitur conclusion that there is therefore no requirement that, where exceptional circumstances *do not* exist, JOM funds may be used only for special services. (These two principles are not, of course, mutually exclusive.)

Because of this failure to acknowledge the difference between the exception and the rule, much of the Area Director's ruling supports one part of the petitioners' position without specifically denying the other part. The Area Director finds (on page 6, for example) that "It would appear . . . that Congress itself noted the difference between a special program and other exceptional circumstances requiring aid for a general program." Petitioners are in full agreement with this conclusion, and believe that it supports their view of the two uses to which Johnson-O'Malley funds may be put. Similarly, where the Area Director states (on page 6)—in reference to "basic" and "special" programs—that "the Bureau has funded and continues to fund both types of program," his opinion again supports petitioners' views of the two uses to which JOM aid may be put. In none of these conclusions, however, does the Area Director suggest any basis for disagreement with petitioners' view that "supplemental" aid is the normal use for JOM funds, with their use for basic aid being allowed under exceptional circumstances of "extreme hardship."

In the face of the clear language of 62 I.A.M. 3.2.8(A), *supra* at 15, the Area Director concludes that "the Bureau appears never to have regarded this phrase [supplemental aid] as creating a separate category of aid (i.e., as supplemental aid *versus* basic support). . . ." He dismisses petitioners' argument with the assertion that "supplemental" aid refers to "further aid of the same type," and bolsters his suggestion by importing into the discussion a bizarre analogy to the purchase of an automobile. In this cryptic metaphor, petitioners' plea for supplemental aid is analogized to "fancy seat covers" and "hubcaps." This analogy is not merely unilluminating. In the context of petitioners' desperate need for supplemental educational programs—programs to meet the enormous special problems of Native students—the comparison to automotive decorations is an inexplicably cruel joke.

The supplemental aid sought by petitioners is not an educational frill. It is aid—over and above the district's basic program—addressed to the special educational needs of Indian children. The special needs of Native children are well-documented on the record of this appeal and elsewhere. For example, the preliminary HEW audit of Title I programs cites testing results disclosing a "serious language problem" in rural Native schools:

> The tests disclosed the problem to be less severe in schools with a balance between ethnic groups and most pronounced in small, isolated schools with high concentrations of Native children. Eighth grade students in schools with high concentrations of Native children were about 2 years behind the national norm in reading. An one school the vocabulary advancement between the fourth and eighth grades was less than the equivalent of a single grade level. [*Report on Review of Title I of the Elementary and Secondary Education Act of 1965 Administered by the State of Alaska Department of Education for the Period September 10, 1965 to August 31, 1970*, at 15–16 (May 20, 1971)].

There should be no need to catalogue here these children's special needs for bilingual programs, intensive reading programs, counseling, and myriad other supplemental aids. Such programs are not, as the Area Director suggests, mere accessories.

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[11] A less important misunderstanding is the role legislative history plays in the interpretation of statutes. At one point for example, the Area Director quotes the language of the 1958 amendment to the Impact Aid Act, and suggests that his language is so clear that no examination of the legislative history is necessary to unravel ambiquities. But he does not explain whether the amendment allows extensive duplication of JOM and Impact Aid funds without restriction, or whether it means that both may be used for the general purpose of basic education for Native children, or whether it means that both may be used for Native education—one for basic programs and the other for special services. Legislative history was cited by petitioners to clear up these conflicting possibilities.

Supplemental aid is at the heart of the 1958 amendment's allowance of Johnson-O'Malley funds to flow to districts already receiving P.L. 874 money. In 1958 Congress recognized that Indian children had special needs which could be served only through supplemental programs, just as it recognized in passing Title I in 1965 that educationally deprived children in general need such specially tailored programs. When funds intended for such programs are used instead for basic educational expenses—for services which the State is already obligated to provide—Native children are denied the opportunity for special programs aimed at their special needs. The Congressional purpose is thereby frustrated. Native children are deprived of their rights under the statute. And the Nation's promise to render Indian children supplemental educational aid—to attack the special problems so long ignored—is broken.

In summary: the statute, the legislative history, and regulations promulgated since 1958 support petitioners' view that JOM money is normally to be used in school districts that receive Impact Aid only for special supplemental programs. The Bureau's Indian Affairs Manual itself provides that these funds are intended to fulfill "the unique program needs of Indian children." Petitioners agree with the Area Director that JOM funds may be used for basic school programs where exceptional circumstances exist. But petitioners vigorously contest his conclusion that JOM funds may be used for basic school programs where exceptional or extraordinary circumstances do *not* exist. In Part C, *infra.*, petitioners will demonstrate that exceptional circumstances, sufficient to permit use of JOM funds for basic programs, do not exist in this case.

B. *Rulings of the Federal District Court hold that, absent the documentation of "extraordinary circumstances," Federal Impact Aid recipients may use JOM monies only to meet the special educational need of Indian children.*

The only court which has ever ruled on the proper use of JOM funds is the United States District Court for the District of New Mexico. Its decision, *Natonabah v. Gallup-McKinley County School Board*, 355 F. Supp. 716, rendered February 8, 1973, dealt precisely with the issue raised in this appeal. The court there stated that there is "serious disagreement as to the proper uses of those monies granted under Johnson-O'Malley." 355 F. Supp. at 725. The Plaintiffs in *Natonabah* challenged the expenditure of certain JOM monies for programs which they believed to be "basic in nature according to the state's standards and [which] should be funded from operational monies." 355 F. Supp. at 726. This claim is analogous in practically all respects to the issue under contention here. After full briefing by both parties and a thorough examination of the evidence, the *Natonabah* court made this ruling:

> The plaintiffs claim that, in the absence of [extraordinary or exceptional] circumstances, any district receiving Impact Aid may receive Johnson-O'Malley monies only to meet the special needs of Indian children for which Impact Aid is not intended, i.e., that the intent of Congress is to avoid duplication of use between Impact Aid funds and Johnson-O'Malley funds.
>
> *The evidence comports with the plaintiffs' interpretation of the above cited regulation.* 355 F. Supp. at 726 (emphasis added).

The court went on to state that "the regulations might *under certain circumstances* allow Johnson-O'Malley funds to be used for basic support programs," but found that there was "no attempt at justification by the local defendants for such use of Johnson-O'Malley money." 355 F. Supp. at 726.

The Area Director's Administrative Determination admitted (p. 8) that the *Natonabah* court "apparently affirmed the plaintiffs' interpretation that *in the absence* of extraordinary or exceptional circumstances JOM money would have to be spent on the special needs of Indian children." The Area Director continued (p. 9) that "in *the presence* of exceptional circumstances JOM money may be spent on something other than special needs" (both emphases in original). This, of course, is a statement which the petitioners agree with. But the central point—which the Area Director no where attempted to dispute—is that the sole judicial pronouncement on the issue joined here is in full agreement with the view urged by petitioners.[12]

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[12] A second case challenging the misuse of JOM funds, and urging the same view of the law, is currently pending before the same judge of the United States District Court for the District of New Mexico. Counsel for all parties in that suit, *Denetclarence v. Board of Education of Independent School District No. 22*, No. 8872 Civil (filed April 2, 1971), have reached a Consent Agreement which also accepts the principles which petitioners urge here. That Consent Agreement is expected to be presented to the Court for its approval in the very near future.

### C. *No "extraordinary or exceptional circumstances" exist in Alaska to justify the expenditure of JOM funds on basic operating programs, and no attempt has been made to document circumstances that might be considered exceptional.*

In his Administrative Determination (p. 9), the Juneau Area Director states that "it is the Bureau's position that the situation in which the rural Alaskan Native school child finds himself is exceptional and extraordinary . . . ." As a result, he concludes that the Bureau may authorize JOM funds for the program provided in the FY 73 contract "regardless of the label placed upon such aid." The only support for this conclusion by the Area Director is a one-half page discussion of the bleak educational options which faced rural Native children in Alaska before the Boarding Home Program was instituted. In one sentence, the Area Director describes correspondence courses as "inadequate," and criticizes B.I.A. schools (by implication) for being "far away from their home . . . in other states" (p. 9). These two options the Area Director labels the "state's 'basic' program," and finds that "in the eyes of the Bureau and of the State" they "constituted an extraordinary or exceptional educational problem" for the rural Native children of Alaska. The Area Director thus concludes that a pair of bleak educational offerings constitute "exceptional and extraordinary circumstances" *per se.*

The Area Director's ruling is a total emasculation of the "exceptional circumstances" doctrine. It allows school districts to shortchange Indian children with dismal educational offerings and then force the federal government to provide the Natives basic education because of the existence of "exceptional circumstances" that are completely of the districts' own making. This interpretation robs the notion of "exceptional circumstances" of any meaning whatsoever. The Secretary must rule that school authorities which elect to spend insufficient monies on Indian students, thereby depriving the Indians of an adequate education, may not be heard to claim that their own malfeasance has created "exceptional circumstances." To allow otherwise is to open the floodgates to local abandonment of their responsibility to Native students. It will also rob JOM monies of every last shred of their supplementary character.

Petitioners agree with the Area Director that inadequate correspondence courses and attendance at far-away boarding schools do not provide students with the equal educational opportunity to which they are entitled. However, inquiries into the presence of "exceptional and extraordinary circumstances" for a determination of JOM eligibility, are to be based—by federal regulations and BIA procedures—on a financial analysis of the school authority's financial ability to provide more.[13] It is not enough, for JOM purposes, to determine that a district's school offerings are inadequate. Instead—as JOM regulations and the *Natonabah* court both require—inquiry must be made into the district's financial ability to provide additional resources.

The regulations which govern the administration of Johnson-O'Malley funds make this crystal clear. They provide that:

> The program will be administered *to accommodate unmet financial needs* of school districts. . . . This federal assistance program shall be based on the *need of the district for supplemental funds* to maintain an adequate school *after evidence of reasonable tax effort and receipt of all other aids* to the district without reflection on the status of Indian children. 25 C.F.R. Sec. 33.4(b) (emphasis added).

This regulation requires that JOM eligibility be based on a showing of "unmet *financial needs.*" It also directs that these financial needs are to be determined by an examination of the district's taxing effort and the availability of other financial assistance (the "Tax Effort—Other Aids" formula). Any ambiguity about this—and petitioners submit there is none—is eliminated by the section of the Bureau's Manual which defines "Eligible School Districts" for JOM funds. It states that eligible districts must "levy *school taxes* at a rate not less than the average for all *similar** type school districts in the State, or otherwise show that *local tax effort* is all that can be reasonably required because of State *constitutional tax limitations* or other factors. . . ."[14] 62 I.A.M. 3.2.4 (emphasis added). That JOM eligibility is determined primarily by the financial resources available to districts is further underscored in the Indian Affairs Manual listing of "other factors to be considered in justifying need and computing amounts of aid." These include:

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[13] It is assumed throughout this discussion of JOM eligibility that the districts under consideration contain "large blocks of non-taxable Indian-owned property' and enroll large numbers of reservation children.

[14] The asterisk in the quotation (which is in the original) refers in a footnote at the bottom of that page in the Indian Affairs Manual, which reads as follows: "Use *similar* type districts when there are separate classes or types of districts under State law."

A. The extent to which education is financed from property taxes.
B. The amount of taxable evaluation behind each child.

* * * * * * *

D. Ratio of tax-free Indian land to taxable land in the district.
E. Taxable resources on tax-free Indian lands (oil, utilities, railroads, etc.) 62 I.A.M. 3.2.4.

It would be hard for the Interior Department and the Bureau to make the basis for determining JOM eligibility any clearer. For most school districts, financial need will be based on tax effort (millage rate), the value of the property subject to taxation, and other resources. No where in its application for JOM aid, however, does the State of Alaska even attempt to demonstrate its financial limitations, or those of the State-Operated School district. Nor does the Juneau Area Director's Administrative Determination indicate any such demonstration. It alludes in passing to "exhausted State anf 874 funds," but this is the closest it comes to a demonstration of "unmet financial needs." Until the State demonstrates that major "unmet financial needs" exist, the Area Director's approval of this JOM contract must be considered reversible error.

Petitioners submit that no demonstration of unmet financial needs has been offered, because no convincing demonstration can be made. One reason is that school districts in Alaska—unlike districts in almost every other state[15]—do not finance themselves primarily from local property taxes. Instead, Alaska has a unique Foundation Support Program under which state revenues provide each district with the great bulk of its general operating costs.[16] As a result, the principal indicator of "unmet financial needs" for JOM eligibility would be the district's revenues from the State (the "Other Aids" half of the Tax Effort—Other Aids formula), rather than the district's tax millage rate. See page 23, *supra*, and 25 C.F.R. 33.4(b). It is therefore to the Foundation Support Program that the Area Director should have directed his inquiry. Because the overwhelming majority of the students enrolled in the Regional Schools and Boarding Home Program come from the SOS, the relevant comparison is the amount of Foundation funds the State provides to SOS compared to the amount the State provides to other districts. This analysis is also supported by the *Natonabah* court, which looked to the amount of equalization aid provided by the State "to enable [poor school districts] to finance an adequate educational program." 355 F. Supp. at 726.

One reason why the State did not provide this data may be because it would show that any alleged shortage of SOS funds (which could justify the use of JOM funds for a basic SOS program (was an artificial, contrived shortage stemming from the State's shortchanging of the SOS in comparison with other school districts. While every other school district in the state is guaranteed a minimum amount of Foundation Support money, based on a fixed formula, the SOS is excluded from this program completely. Instead, the amount of its basic State aid is left up to the uncertain processes of the State Legislature which passes an appropriation every year for basic SOS programs.

As a result, it is arguable that SOS cannot be found to have "unmet financial needs" until the full taxing power of the State Legislature is exhausted, including all oil pipeline revenues and other taxable resources available to the State.

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(emphasis in original). The importance of the tax effort in determining eligibility is further underscored by the Manual's financial reporting requirement that each recipient of JOM funds must submit an annual report which "should include (1) the rate of local taxes, . . . and (3) average rate of school taxes for all school districts in the State," 62 I.A.M. 3.2.12B3.

[15] The State of Hawaii which has a fully-State funded system without even local boards of education is the other primary example.

[16] Under State law, the State Foundation Program provides districts at least 90% of the amount the State believes is required to operate a basic school program. (Some districts receive as much as 98% of this amount.) This means that Foundation Support from the State, rather than the yield of the district's local property taxing, is the chief source of local educational moneys. Taken as a whole, the State provides approximately 92% of all non-federal revenues for public elementary and secondary education. This is the highest state contribution in the nation, except for Hawaii. U.S. Department of HEW, *Public School Finance Programs, 1971–72*, at 11.

At any rate, it is clear that the resources available to the SOS are not limited by "State constitutional tax limitations" and similar factors that usually apply to local districts. 62 I.A.M. 3.2.4(c).

At the very minimum, it is apparent that the amount SOS receives from the Legislature must be compared with the amount it would receive if it were given money under the Foundation Support Program as all the other districts are. It is this comparison—with a Legislature able to draw on the vast and varied tax resources of a whole State—that shows the State's "financial discrimination against students in the Alaska State-Operated School Systems." [See Number (3), below.] In fact, SOS receives approximately 20% less from the legislature than it would receive if it were included in the Foundation Support Program—$672 less per pupil than the Kenai and Kodiak Districts, for example, and $521 less than the Fairbanks District.

The State's basic short-changing of SOS is an acknowledged fact in Alaska, and has been the subject of serious state concern quite apart from the Johnson-O'Malley program. As a result, the State created a Foundation Support Program Committee, which included the Superintendent of the SOS, to study this matter. The Committee's investigation included meetings with the State Commissioner of Education and important legislative officials. Its Final Report concluded, *inter alia*, that:

(1) Legislative appropriations for the State-Operated School System have "historically . . . been less than adequate."

(2) Legislative appropriations for the SOS have *not been "equal to school district support* as provided by the Foundation Support Program." In FY 72, for example, *SOS received 20% less* ($7,798,000) *than it would have under the Foundation Support Program.*

(3) Inclusion of SOS in the Foundation Program would "eliminate *financial discrimination against students in the Alaska State-Operated School System.*" [Foundation Support Committee Report, pp. 1–2 (emphasis added)].

This report by a study committee formed by the State itself, refutes any suggestion that the "Other Aids" available to the SOS are so exhausted as to justify the expenditure of JOM funds on basic programs.

It is clear, therefore, that none of the criteria laid out by the Federal Regulations and the Indian Affairs Manual for determining JOM eligibility have been shown to exist. The state has no where demonstrated the existence of exceptional financial circumstances that would justify the use of JOM monies for basic rather than supplemental programs. The Juneau Area Director erred, therefore, in his Administrative Determination that the educational situation of rural Alaska Natives constitutes "exceptional and extraordinary circumstances" *per se* for the purposes of a Johnson-O'Malley determination.

D. *The programs financed by Alaska's JOM funds are "basic" programs which the State is obligated to provide.*

Of all the issues raised in this appeal, perhaps none is clearer than the fact that Alaska's JOM funds are being used to finance basic educational programs for Native students. The Regional Schools and Boarding Home Program constitutes the only full-time teacher-supervised secondary instruction the State provides to the vast majority of Native SOS secondary students. Native children of secondary school age either attend these schools (or BIA schools) or they attend no school whatsoever.[17]

The Regional Schools and Boarding Home Program affords rural SOS secondary school-aged students their sole opportunity for access to a schoolroom teacher. It cannot seriously be contended that this is a "supplemental" program. "Supplemental" to what? There is literally nothing else.[18]

This common-sense approach to the determination of a "basic" program conforms to that adopted by the court in *Natonabah, supra.* The court squarely held:

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[17] The state nominally offers students the opportunity to take correspondence courses. The program is neither intended nor staffed to serve more than a few students. See *Hootch* deposition of Margaret Justice, State Director of Correspondence Study.

[18] In determining what constitutes the "basic" SOS secondary school program, the expenditures for dormitories and boarding home stipends cannot be divorced from expenditures on classrooms and teachers. If the provision of the schools is basic—as petitioners contend—then so is the provision of living arrangements which makes attendance, as a practical matter, at least possible. Provision of distant schools without the means to attend them would be no provision at all.

> If the plaintiffs' charges are tested against what is ordinarily furnished to every student in the Gallup-McKinley County system, it can be seen that the plaintiffs are correct in their contention that certain programs classified as special programs to be paid for with Johnson-O'Malley or Title I funds are in fact part of the basic school program and should be paid for with operational [i.e., local] funds. *Id.* at 726–7.

Classroom secondary education "is ordinarily furnished to every student" in SOS—except rural Natives. Such education is furnished out of local and Impact Aid funds to the 2344 secondary students attending On-Base schools. Such education is furnished to 200 students who are residents of Bethel. Such education is furnished to the 73 white students who attend Regional Schools and participate in the Boarding Home Program. But such education—for the 1100 Native children attending the Regional Schools and participating in the Boarding Home Program—is not furnished out of local and Impact Aid funds. It is instead paid for with Johnson-O'Malley funds. This use of JOM money to finance a portion of a program "ordinarily furnished" to every other student in SOS constitutes a clear case of impermissible supplanting. (See page 2, *supra.*)

The Area Director's assertion that "supplemental aid" under the Johnson-O'Malley Act simply means "further aid of the same type" as Impact Aid (which *can* legally be used for basic support) is completely unfounded. In essence, this statement is nothing less than a blanket authorization for a school district to apply JOM money to basic programs which the district chooses to under-fund. That practice was held impermissible in *Natonabah*. It should not be approved here.

In *Natanobah*, local defendants attempted to fund nursing services for JOM-eligible students out of JOM funds and similar services for other students out of local funds. The court rejected the theory that JOM funds could thus be used—to paraphrase the Area Director—for further services of the same type as those provided to others through local funds. *Id.* at 727. These expenditures were enjoined as statutorily impermissible. *Id.* at 732. Similarly, the court enjoined use of JOM funds to provide counselors to Indian students, where counselors were provided to other students out of other resources. *Id.* at 728. Nor was the district permitted to use JOM funds to supplant administrative costs. *Id.* Just as in *Natonabah*, SOS here should not be permitted to fund part of its basic secondary school program out of JOM funds. The obligation to finance the SOS basic secondary program is Alaska's, using state and Impact Aid funds. JOM funds may then be used for the supplemental programs for which such funds were intended.

The Area Director's fining, at 10, that the State provides funding above the cost level attributable to non-Natives in no way diminishes the force of petitioners' argument that a failure to fund the *entire* program out of operational funds is (1) discriminatory and (2) impermissible supplanting. It is no answer to either charge to maintain that the denial of petitioners' rights is partial rather than total. Even under *Plessy v. Ferguson*, 163 U.S. 537, the State's efforts on behalf of minority children must be *equal*.

The Area Director's suggestion, at 10–11, that the appearance of discrimination is caused by accounting procedures is without foundation. The appearance of discrimination here clearly results from but one cause: discrimination. A change of bookkeeping entries might shroud that discrimination, but it will not terminate it. The plain fact is that the State acknowledges that it pays for white students' expenses out of state funds while billing Native students' expenses to the B.I.A.

The State Director of the Regional School and Boarding Home Program, Mr. James Harper, stated in sworn testimony (given by deposition on June 8, 1973) that (1) white students as well as Natives were enrolled in these programs, (2) state funds provided transportation to the white students enrolled in these programs, and (3) state monies paid stipends to citizens who housed white students in the Boarding Home Program. Mr. Harper also testified that these services were provided to Native students, but were paid for them out of JOM monies.[19] (He also stated that stipends for Boarding Home students were coded separately—to State or JOM funds—depending on whether the student was white or Native.) Mr. Harper also stated that he was confident, of his own personal experience, that the State Legislative would pay the transportation costs of JOM students (which he estimated at $400,000) if JOM funds were no longer available for that purpose. "Being fiscally responsible men," he remarked, the members of the Legislature would not allot money for this purpose so long as they could get JOM money to pay for it.[30]

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[19] Further evidence of these practices, including quotation from State documents which verify these arrangements, is found in Part IV of this memorandum (p. 36).

It hardly seems possible to claim, as the state does, that this program is "supplemental" for Natives, but not for white students. Nor does the Area Director's Administrative Determination explain how the Bureau can endorse this arrangement.

These assertions on behalf of the State are clear evidence of discrimination. They are clear evidence of supplanting. They are clear evidence that the State itself regards the programs here in question as basic. Under these circumstances, use of JOM funds on these programs is contrary to law and should now be halted.

### II. THE JOM CONTRACT IS VOID BECAUSE THE STATE HAS VIOLATED ITS OBLIGATION TO PROVIDE NATIVE STUDENTS ALL THAT IT PROVIDES TO WHITES

In addition to the JOM eligibility requirements of 25 C.F.R. 33.4, other Interior Department Regulations require that Native students be provided the same educational opportunities that non-Natives receive. The "Equal Educational Opportunities" regulation, 25 C.F.R. 33.5(c) provides that

> Education for Indian children in public schools within the State shall be provided upon the same terms and under the same conditions that apply to all other citizens of the State.

Violations of this provision are discussed in Part IV, below.

The "Uniform Application of State Law" regulation, 25 C.F.R. 33.5(d), provides that

> Schools receiving Indian children . . . shall receive *all aid from the State and all other proper sources* other than this contract, which other similar schools of the State are entitled to receive. *In no instance shall there be discrimination by the State* or subdivision thereof against Indians or *in the support of schools receiving such Indians*, and such schools shall receive State and other non-Indian Bureau funds for aid to which schools are entitled (emphasis added).

Each of these provisions is repeated in the Indian Affairs Manual, 62 I.A.M. 3.2.7, and in the challenged contract between the State and the Bureau.

As explained in Section I C above (p. 25), the State-Operated School district—which enrolls an identifiably high proportion of Native students—is the only district in the State which does not receive Foundation Support Program funds. Each student enrolled there receives approximately 80% of the State per pupil expenditure that the students in other districts receive. Given this fact, it is difficult to see how it can be maintained that "schools receiving Indian children . . . receive all aid from the State . . . which other similar schools of the State are entitled to receive." Yet this is the precise requirement of 25 C.F.R. 33.5(d). This regulation provides further that there shall be no discrimination by the State "in support of the schools receiving such Indians," yet this basic inequality persists in the most important element of the funding of public schools in Alaska. The contract between the State and the Bureau also incorporates these provisions, but they, like other JOM regulations, are being violated. These violations justify a finding by the Secretary that the requirements of the Johnson-O'Malley Regulations have not been met in the contract for FY 1973, and justify the Secretary's voiding of that contract.

### III. THE ALASKA DEPARTMENT OF EDUCATION MAY NOT SPEND ON ITS OWN PROGRAMS JOM FUNDS INTENDED FOR LOCAL SCHOOL DISTRICTS

The JOM statute and regulations require local school districts rather than state departments of education to be the ultimate recipients of JOM funds. The statute empowers the Secretary of the Interior to contract with any state or subdivision thereof *"through the agencies of the state."* 25 U.S.C. 452. The meaning of this language is clarified in controlling regulations of the Department of Interior which require:

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[30] It may also be indicative of Native feelings about this arrangement that the Alaska Federation of Natives which has been delegated responsibility for administration of the State's JOM funds in the coming year, has voted to disallow any JOM funds for the Regional Boarding Schools, and is allocating JOM funds to the Boarding Home Program only for one more year—and then only because of the lateness of their decision and the difficulty of securing other funds for the program on such short notice.

> The program will be administered to accommodate the unmet financial needs of *school districts*. . . . This Federal assistance program shall be *based on the need of the district*. . . . 25 C.F.R. 33.4(b) (emphasis added).

The term "school district" is defined as "the local unit of school administration as defined by the laws of the State in which it is located." 25 C.F.R. 33.1(b).

The Federal regulations further require as a condition of eligibility for JOM funds that each State "formulate a plan for the distribution of contract funds *to local school units*, which shall be acceptable to the Commissioner of Indian Affairs or his authorized representative." 25 C.F.R. 33.5(a) (emphasis added). The Alaska Department of Education is not a "local school unit" or a "school district" under state law. [See A.S. 14.12.010 (districts of state public school system) and A.S. 14.08.010 *et. seq.* (Alaska State-Operated School System)]. Accordingly, the 1973 JOM contract which allocates $3,996,000 of $4,625,000 to the State Department of Education rather than to local school districts violates the controlling federal regulations.

The strict construction of federal regulations petitioners urge is supported by two sound policy considerations. The Department of Education has a responsibility to assist all the public school districts in the state to meet the educational needs of all Alaskan school children, a responsibility which cannot be discharged in an even-handed way if the State Department itself is competing for the same educational funds which would otherwise be available to the districts. Here, the State Department has allocated to itself 85% of available JOM funds for its own Division of Regional Schools and Boarding Home Program. According to the testimony of Kenneth Grieser, the Department's Co-Ordinator for Federal Programs, some districts which were eligible for JOM funds submitted applications for supplemental programs designed to meet the special educational needs of Native students, but were denied funding by the State. (Grieser Depo., pp. 70–72)

A second and equally compelling policy consideration requiring a literal construction of the JOM regulations is that under the existing program the State Department of Education is not able to carry out its responsibility to enforce the terms of the JOM contract and regulations. In the deposition of Kenneth Grieser the following colloquies took place:

> Q. Mr. Grieser, supposing [you had] reason to believe that the State were operating a program which was improper under the regulations, wouldn't it be very difficult to monitor that situation where, in fact, you as an employee of the State are asked to monitor some other division, perhaps, of this same Department? Would you feel a little bit inhibited?
>
> A. I don't think I want to answer that question.
>
> Q. Have you ever had occasion to question, for example the question of whether or not the Boarding Home Program complies with the state policy in terms of providing a supplemental program?
>
> A. I'm not sure that I want to answer that question either. (Grieser Depo., pp. 84–85)

Clearly, the Department of Education is not and cannot be in a good position to police "**in house**" programs. Both as a matter of law and as a matter of sound policy, the federal requirements that the JOM program provide assistance to local school districts should be enforced.

### IV. THE PROPOSED EXPENDITURE OF FUNDS VIOLATES THE CIVIL RIGHTS ACT OF 1964 AND THE UNITED STATES CONSTITUTION

In addition to the claim that Alaska's FY 73 JOM funds are being disbursed contrary to Interior Department regulations which govern their expenditure [25 C.F.R. Part 33], petitioners argue that the proposed expenditures will violate Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.

Petitioners ground their claim on the Supreme Court's finding in *Brown* v. *Board of Education*, 347 U.S. 483, 493 (1954), that educational "opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms." In an educational program, a state may not decide to provide ample funds for the education of substantially all persons of one racial group, and far fewer funds for substantially all members of another. Incredibly, this is precisely what the State has done here and what the proposed expenditure of Johnson-O'Malley funds would facilitate.

The State's proposed JOM budget for fiscal 1973 allocates more than 86% of the total funds to the Regional School and Boarding Home Program. This is not a special Native program, nor one limited to Native students. The By Laws of the State Board of Education state categorically that the program is open to application from "any student living in the unincorporated areas of Alaska." While 87% of the students now enrolled in the program are Native, it is a State-run program for all students, white as well as Native. Because the State Constitution[21] and laws[22] give every Alaskan student the right to receive a free public education and because these programs are the only State secondary education (other than correspondence courses) available to these students, the State pays the instructional and tuition costs for each student—white or Native—enrolled. The same is not the case, however, for student transportation and boarding costs, which are a necessary part of making this opportunity a reality. In these aspects of financing the program, Alaska has determined that it will expend state funds to pay white students' expenses, but not those of Natives. This failure to provide the full components of educational opportunity—because of race—is a more severe form of discrimination than the provision of separate facilities that was condemned in *Brown*.

The published By Laws of the State Board of Education, which govern the operation of the State-Operated School System (SOS), acknowledge that "any student living in the unincorporated areas . . . is eligible to apply" to the state Boarding Home Program. They also state—without ambiguity—that "non-Native students will be transported at State expense," while Native students will not (page 39). On the following page, the By Laws provide that "economically deprived non-Native students [will be financed entirely] by ESEA, Title I" funds (page 40), but economically deprived Native students are not to be financed by Title I benefits.[23] Similarly, the June 14, 1967 Amendment to the *Alaska State Plan* for the Administration of Johnson-O'Malley Act funds provides (page 3) that the State will provide "a pro rata share of [Bethel Regional High School] dormitory expense for pupils not receiving support from the Bureau of Indian Affairs." This statement, signed by then Governor Hickel and then Acting Commissioner of Education Cliff R. Hartman, is a code way of stating that the State will pay the dormitory expenses of non-Natives, but will not assume this responsibility with regard to Native students. The fact that the fiscal 1973 Johnson-O'Malley budget, which plaintiffs challenge here, provides $3,872,000 for the Boarding Home and Dormitory programs indicates that the State still refuses to pay these expenses for Natives out of its own revenues. The fact that the transportation and boarding expenses of Native students are paid by another federal governmental unit—illegally, as the first part of this memo explains—does not change the fact of the State's discrimination in the provision of educational services out of its own revenues.

### A. *The State's Regional School and Boarding Home Program Violates the Clear Statutory Language of Title VI of the Civil Rights Act of 1964.*

The State's practice of providing educational programs and facilities to one racial group and failing to provide it to another violates Title VI of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000d et seq.). Section 2000d provides that:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, *or be subjected to discrimination under* any program or activity receiving Federal assistance. (emphasis added)

The State's practice of paying the full educational costs of its white citizens out of State tax revenues and refusing to expend its revenues for the same programs for its Native citizens clearly subjects the Native citizens to discriminatory treatment based solely on their race. The program under which this occurs, the Regional High School and Boarding Home Program, receives very substantial federal financial assistance from Johnson-O'Malley Act funds. Thus, there can be little question that these programs violate the clear words of the statute. 42 U.S.C. Sec. 2000d.

### B. *The State's Regional School and Boarding Home Program Violates the Title VI Guidelines Issued by the Secretary of the Interior.*

Any doubt about whether the State's Boarding Home Program violates the Civil Rights Act of 1964 is dispelled by the regulations published by the Secretary of the Interior, 43 C.F.R. Part 17, "to effectuate the provisions of Title VI of the Civil Rights Act of 1964 . . . under any program or activity receiving

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[21] Article vii Section 1. See *Breese v. Smith*, 501 P.2d 159 (Alas. 1973).

[22] A.S. 14.03.080(a), 4AAC 06.020(a).

[23] This Provision remains on the books as an overt reminder of discrimination in financing, but the State ceased the use of Title I funds for this purpose after a 1970 HEW audit.

Federal financial assistance from the Department of the Interior." 43 C.F.R. Sec. 17.1. The Regulations apply to "*any* program for which Federal financial assistance is authorized under a law administered by the Department." [34] 43 C.F.R. sec. 17.2 (emphasis added), and prohibit "directly or through contractual or other arrangements" a list of six "specific prohibited discriminatory actions." 43 C.F.R. Sec. 17.3(b)(1). No recipient may, "on the ground of race, color, or national origin:"

> (i) *Deny an Individual any service*, financial aid, or other benefit provided under the program;
>
> (ii) *Provide any* service, financial aid, or other *benefit* to an individual which is *different, or* is provided *in a different manner, from that provided to others* under the program;
>
> (iii) *Subject an individual* to segregation or *separate treatment in any matter* related to his receipt of any service, financial aid, or other benefit under the program;
>
> (iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
>
> (v) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program . . . (emphasis added).

Certainly there can be no question that Native students are denied state-provided transportation and boarding expenses under the Regional School and Boarding Home Program, in violation of paragraph (i) above; that their transportation and boarding expenses are provided "in a different manner from that provided to others" (whites), in violation of paragraph (ii) above; and that Native students are "subject(ed) to separate treatment," in their receipt of services, in violation of paragraph (iii) above.

Moreover, the subsequent paragraph of Title VI regulations describes another "specific prohibited discriminatory action" which is violated by the State's administration of the Regional School and Boarding Home Program. Section 17.3(b)(2) provides that:

> A recipient, in determining the types of services . . . or other benefits . . . which will be provided under any such program or the class of individuals to whom, or the other situations in which, such services . . . (or) other benefits or facilities will be *provided . . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination* because of their race, color or national origin . . .

It is hardly possible for the English language to describe more exactly the kind of administration that is prohibited, and this description squares with the arrangements under which the State provides transportation and boarding services. In determining the class of individuals to whom, and the situation in which, these services will be provided, the State, through contractual arrangements with the Bureau of Indian Affairs, has used methods of financial administration which have the effect of subjecting natives to discrimination. This conduct is prohibited by the federal regulations.

### C. *Title VI Regulations Are Binding and Must Be Enforced By the Secretary.*

The leading case which discusses the background and effect of Title VI is the Fifth Circuit's decision in *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836 (1966), order corrected, 380 F. 2d 385 (1967), cert. denied sub nom. *Caddo Parish School Board* v. *United States*, 88 S. Ct. 77, 389 U.S. 840 (1967). There the court found squarely that "Title VI requires all federal agencies administering any grant-in-aid program to see to it that there is no racial discrimination by any school or other recipient of federal financial aid" (at 850).

The greatest value of the Fifth Circuit's decision is the perspective it offers on the Act. The court begins by quoting from the U.S. House of Representatives Judiciary Committee's report on the bill (372 F. 2d at 849):

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[34] The Johnson-O'Malley Act is specifically listed, (No. 4 in Appendix B of the Department's Title VI regulations), as a program to which the regulations apply. It is listed in Appendix B rather than Appendix A, see 43 C.F.R. Sec. 17.2, to indicate that, as a special program intended specifically for Indian recipients, its funds may be spent exclusively on Indians (thus "discriminating" on the basis of national origin against non-Indians) without violating Title VI or the regulations. See 43 C.F.R. sec. 17.3(d).

> (I)n the last decade it has become increasingly clear that progress has been too slow and that national legislation is required to meet a national need which becomes even more obvious. That need is evidenced, on the one hand, by a growing impatience by the victims of discrimination with its continuance and, on the other hand, by a growing recognition on the part of all of our people of the incompatibility of such discrimination with our ideals and the principles to which this country is dedicated. A number of provisions of the Constitution of the United States clearly supply the means 'to secure these rights,' and H.R. 7152, as amended, resting upon this authority, is designed as a step toward eradicating significant areas of discrimination on a nationwide basis. It is general in application and national in scope. House Judiciary Committee Report No. 914, to Accompany H.R. 7152. 2 U.S. Code Congressional and Administrative News, 88th Cong. 2nd Sess. 1964, p. 2393.

The *Jefferson County* decision, citing support from other Circuits for its position (at 857), upheld HEW Guidelines issued pursuant to Title VI (at 857), and the principles stated there apply with equal force to the Regulations issued by the Secretary of the Interior. For one thing, the Interior Department's itemization of "specific prohibited discriminatory actions," *supra*, coincides verbatim with the HEW Title VI Regulations found at 45 C.F.R. Sec. 80.3(b). Also, it was the intent and direction of the President that the various federal departments and agencies adopt "uniform and consistent regulations implementing Title VI . . . (in) a coordinated program of enforcement," and that the Attorney General coordinate the adoption of "consistent and uniform policies, practices, and procedures with respect to the enforcement of Title VI . . . ." Executive order No. 11247, Sept. 28, 1965, 30 F.R. 12327.

It is equally clear that these regulations apply to Northern states such as Alaska as well as the former slave states of the South. Circuit Judge Gewin underscored this in his *Jefferson County* dissent when he wrote:

> All children everywhere in the nation are protected by the Constitution, and treatment which violates their constitutional rights in one area of the country, also violates such constitutional rights in another area. 380 F. 2d at 397.

Senator Pastore, "one of the principal spokesmen who handled this legislation," 380 F. 2d at 398, stated the point clearly:

> [These rules and regulations] must have broad scope. They must be national. They must apply to all fifty states. We could not draw one rule to apply to the State of Alabama, and another rule to apply to the State of Rhode Island. There must be only one rule, to apply to every state. 110 Cong. Rec. 7059, April 7, 1964.

Nor may the Area Director draw a different rule for Alaska. The State's practices discriminate against Natives. And it is the Secretary's duty, if the Area Director has shirked it, to insure that Interior Department funds are not accomplices in the practice.

### D. *The Principle Remedy for a Violation of Title VI is the Termination of Federal Assistance, Until Compliance is Assured.*

42 U.S.C. Sec. 2000d–1 sets forth sanctions to be imposed for violations of Title VI. It reads in part: "Each Federal department and agency . . . empowered to extend Federal financial assistance to any program or activity . . . is authorized and directed to effectuate the provision of section 2000d" by rules and sanctions which include "the termination of or refusal to grant or to continue assistance under such program or activity . . . ." A major objective of this provision is to provide for the withholding of federal funds from "any state-supported program . . . in which there is discrimination based on race or color." *Lee* v. *Macon County Board of Education*, 270 F. Supp. 859, 862 (M.D. Ala. 1967), aff'd sub non. *Wallace* v. *United States*, 389 U.S. 215. The statute and regulations provide for internal Departmental hearings (43 C.F.R. Sec. 17.7 et seq.) to effect an administrative cut off of funds, and that power should be invoked by the Secretary now while this matter is before him.

## V. THE CONTRACT BETWEEN THE B.I.A. AND THE STATE CANNOT JUSTIFY DISCRIMINATION, NOR CAN IT BAR RELIEF

The State has suggested in its deposition (Greiser deposition at 85–86) that the arrangements for financing the Boarding Home Program cannot be successfully challenged because they bear a B.I.A. stamp of approval stemming from the contract between the State Department and the B.I.A. for disbursement of the funds. As discussed in the first part of this memorandum, that contract is itself illegal because it is beyond the scope of the authority of B.I.A. representatives to approve Johnson-O'Malley plans and contracts that violate federal Johnson-O'Malley regulations. But even if the contract itself were "legal" in the narrow sense, it cannot stand in the way of the vindication of federal constitutional rights or rights conferred by federal statutes. As the Supreme Court reaffirmed recently in *North Carolina State Board of Education* v. *Swann*, 402 U.S. 43, 45 (1971), "state policy must give way when it operates to hinder vindication of federal constitutional guarantees."

The Fifth Circuit faced the question of contractual obligations that might hinder the achievement of constitutional rights four years ago in *U.S.* v. *Greenwood Separate Sch. Dist.*, 406 F.2d 1086 (1969). There a school board protested that it was powerless to transfer tenured teachers to desegregate school faculties because of state laws and employment contracts with the teachers. Sweeping aside this contention, the court ruled that "local teacher hiring statutes may not be interposed to frustrate a constitutional mandate." Moreover, "the board's responsibility is not optional: it must withhold approval of contracts if necessary. . . ." 406 F.2d at 1094. This ruling is entirely consistent with the earlier holding in *U.S.* v. *Board of Education of City of Bessemer*, 396 F.2d 44, 51 (5th Cir. 1968), where a similar question arose:

> We are emphatic that a school board could not use local tenure or teacher hiring-security statutes as a justification for failing to initiate and maintain desegregation of facilities. Any such result would empower a State, opposing the principles of a valid Federal Court decree, to override it through collateral legislation.

See also *U.S.* v. *Jefferson County Board of Education*, 380 F.2d 385, 394 (5th Cir. 1967). Moreover, the Supreme Court's decision last year in *U.S.* v. *Scotland Neck City Board of Education*, 92 S.Ct. 2214, 2217 (1972), affirmed that even "a special act of the state legislature" cannot prevent the attainment of constitutional rights because it "has no constitutional significance."

In the face of this Supreme Court ruling that special acts of state legislatures cannot delimit constitutional guarantees, it is hard to see how a contract between two administrative agencies could ever rise to the level of a serious obstacle. A long series of employment cases hold that contractual obligations cannot stand in the way of rights conferred by federal statutes, let alone the constitution. The Fifth Circuit stated it well in *U.S.* v. *Jacksonville Terminal Co.*, 451 F. 2d 418, 454 (1971):

> That hoary collective bargaining arrangements now mandate perpetuation of past abberations from the governmental policy does not affect the propriety of judicial action. See *Local 53 International Assoc. of Heat and Frost Insulators and Asbestos Workers* v. *Vogler*, 407 F. 2d at 1054. Such agreements do not, *per se* carry the authoritative imprimatur and moral force of sacred scripture, or even of mundane legislation.

See also *U.S.* v. *Sheet Metal Workers Int'l. Assn., Local U. 36*, 416 P. 2d 123, 132 n. 16 (8th Cir. 1969). The same must be said about the contract between the State Department of Education and the Bureau of Indian Affairs. Neither agency is invested with the power to deny citizens rights secured to them under federal law, and what neither possess alone does not suddenly materialize, like Minerva of the classic myths, from no substantial legal ancestors. Until some substantial authority is offered to support the State's unsubstantiated assertion, the idea must be rejected as an uninformed suggestion which runs contrary to the basic principles upon which American law is based.

## Conclusion

Alaska has a history of denying Native citizens equal educational opportunity. The only way to begin to compensate these victims of discrimination is to put an end to this discrimination *now*. Today Native students are allowed to enroll in public schools, but the proposed expenditure of Johnson-O'Malley Act funds which petitioners contest is a more subtle form of discrimination which has replaced the racist name calling and exclusion of the past. It is today's version of yesterday's wrong. The Secretary has the power—and the duty—to put the brakes on this injustice.

The Secretary can, and should, halt the expenditure of these millions of dollars because it illegally violates the federal regulations which govern their disbursement. The proposed expenditures will supplant State and local provision of educational services—rather than provide the supplementary services the funds are

**intended for—and run through the State rather than through local districts, as the law requires. These violations of the law, without more, require the Secretary to void this contract to halt these expenditures.**

But there is more. In 1964, Congress—frustrated at the nation's slow progress in eliminating discrimination—provided a new remedy. Title VI authorized the executive to cut off federal financial assistance under any act of Congress where those funds are tied up in a program that discriminates on the basis of race. A Fifth Circuit panel, per Circuit Judge Goldberg, stated the principles which guide this process in *Board of Instruction of Taylor County, Florida* v. *Finch*, 414 F.2d 1068 (1969). It stated that whenever federal funds provided under any statute

> are administered in a discriminatory manner, or *if they support a program which is infected by a discriminatory environment, then termination of such funds is proper.* 414 F. 2d at 1078 (emphasis added).

The proposed expenditure of Johnson-O'Malley funds through the Regional School and Boarding Home Program is based on financial discrimination against Native children—by providing no State funds for the basic expenses of Native children while supplying funds for these services for white children. Because this discriminatory manner of financing lies at the heart of the Regional School and Boarding Home Program, there can be no more glaring example of "a program which is infected by a discriminatory environment." Under these circumstances, the Secretary should enjoin the expenditure of these funds.

Dated: October 18, 1973.

Respectfully submitted.

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## U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF SURVEY AND REVIEW, AUDIT OPERATIONS

Audit of Bureau of Indian Affairs—Johnson-O'Malley Contracts With the State of Oklahoma for the Education of Indian Children in Oklahoma Public Schools, Period July 1, 1970, Through June 30, 1972.

*Denver, Colo., April 1973.*

### INTRODUCTION AND SCOPE

Audit Operations, Office of Survey and Review, has made an audit of costs incurred under Contract Nos. G00C14201591 and G00C14201887 between the Muskogee and Anadarko Area Offices, Bureau of Indian Affairs (BIA), and the State of Oklahoma, Department of Education. These contracts provided financial assistance under the Johnson-O'Malley (JOM) Act (25 U.S.C. 452) to public school districts for the education of Indian children. The responsibility for administration of the contracts at the state level has been assigned to the Division of Indian Education (Contractor) whose sole function is the administration of the JOM program in Oklahoma.

Our audit was performed in accordance with generally accepted auditing standards and included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. The audit was completed in April 1973 and covered costs incurred from July 1, 1970, through June 30, 1972. The audit findings were discussed with the Indian Education Administrator and the Deputy Administrator as well as with school district officials at the conclusion of our review. Their comments are included in the report as appropriate.

## BACKGROUND

JOM contract payments were $1,552,750 in fiscal year 1971, and $1,901,636 in fiscal year 1972. All payments by BIA were made directly to the Contractor who, in turn, allotted funds to the participating school districts. For the fiscal years under review, payments were made for administration and supervision, basic support and special services. Student lunches were included under special services. Fiscal year 1972 marked the last year in which JOM funds were provided for basic support and student lunches. Because of this and the nature of these items, the two categories of payments and related expenditures were excluded from our review.

Payments for special programs were made to 129 participating school districts during fiscal year 1972 serving approximately 13,000 Indian students. In addition to our work at the Contractor's office in Oklahoma City, we audited expenditures at the following 23 school districts which had about 3,900 eligible Indian students enrolled:

| County | *School district* |
|---|---|
| Adair | Bell, Maryetta, Westville. |
| Blaine | Canton, Watonga. |
| Caddo | Anadarko, Carnegie, Lookeba-Sickles. |
| Kay | Ponca City. |
| LeFlore | Talihina. |
| Carter | Ardmore, Dickson, Plainview. |
| Cherokee | Grandview, Lost City. |
| Delaware | Colcord, Jay, Oaks Mission. |
| McCurtain | Broken Bow, Idabel, Wright City. |
| Pontotoc | Byng, McLish. |

Incorporated into the annual JOM contracts between the BIA and the State are agreements commonly referred to as the State Plan. The State Plan establishes the general criteria regarding such items as the eligibility of school districts to receive JOM funds, the use of JOM funds by the State and participating school districts, and other procedures encompassing visitations and program reviews, reporting, and Indian involvement. Specific requirements not enumerated in the State Plan are included in the special provisions of the annual contracts.

JOM funds were advanced by the BIA based upon payment requests submitted by the Contractor. The method of payment was in accordance with the fiscal year 1972 contract payment clause, but contrary to the fiscal year 1971 contract payment clause which provided that payments were to be based on actual expenditures. Except for those funds expended at the state level for administration and supervision of the program, JOM funds were distributed to the participating school districts in the following manner:

1. Payments for special and summer programs, including but not limited to teachers, teacher aides, tutors, counselors, remedial education, American College Testing fees, supplies and equipment, and transportation, were generally based upon approved budgets. School districts were required to report the expenditure of funds so advanced to the Contractor on an annual basis.
2. Payments for basic support were determined under a formula which was made a part of the State Plan.
3. Payments for lunches were computed at a fixed rate based upon the number of lunches served to eligible Indian students during the preceding school year. The rates for fiscal years 1971 and 1972 were 10 cents and 5 cents per meal served, respectively.

## AUDITED COSTS

Summarized below, and shown in greater detail in exhibits I, II and III, are the costs claimed, audited, questioned, and approved by audit. Amounts shown as costs claimed and audited represent expenditures at the state level as well as payments made by the State to participating school districts during the fiscal years indicated. Where our audit disclosed expenditures of carryover funds by school districts which we consider to be questionable in nature, these amounts are included in questioned costs, but are excluded from costs claimed and audited for the applicable fiscal year.

| | Contract Nos. G00C1420— | | |
|---|---|---|---|
| | 1591: July 1, 1970, June 30, 1971 | 1887: July 1, 1971, June 30, 1972 | Total |
| Costs claimed | $1,428,718 | $2,054,469 | $3,483,187 |
| Unaudited costs | (935,602) | (1,249,317) | (2,184,919) |
| Audited costs claimed | 493,116 | 805,152 | 1,298,268 |
| Questioned costs [1] | (148,577) | (282,667) | (431,244) |
| Costs approved by audit | 344,539 | 522,485 | 867,024 |
| Status of contract funds: | | | |
| Carryover from prior year [2] | 59,299 | 183,331 | 59,299 |
| Payments under current contract | 1,552,750 | 1,901,636 | 3,454,366 |
| Miscellaneous revenue | 0 | 320 | 320 |
| Total | 1,612,049 | 2,085,287 | 3,514,005 |
| Carryover for current year [2] | (183,331) | (30,818) | (30,818) |
| Costs claimed | 1,428,718 | 2,054,469 | 3,483,187 |

[1] Includes expenditures of carryover funds at the school district level from prior years which are not included in cost claimed and audited.

[2] State level only.

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U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
OFFICE OF SURVEY AND REVIEW,
*Lakewood, Colo., July 11, 1973.*

Memorandum to: Assistant to the Secretary for Indian Affairs.
From: Audit Operations, Office of Survey and Review.
Subject: Report on audit of Johnson-O'Malley contracts between the Bureau of Indian Affairs and the Oklahoma Department of Education, Oklahoma City, Okla.

Enclosed is our audit report on the subject Contract Nos. G00C14201591 and G00C14201887 covering the period July 1, 1970, through June 30, 1972.

The audit report questions costs totaling $431,244. Of this amount, $343,750 pertained to ineligible student participation in Johnson-O'Malley special programs at 23 school districts included in our audit. The Administrator, State Division of Indian Education, stated that ineligible student participation exists, also, at the 106 school districts not included in our audit that have Johnson-O'Malley special programs.

In addition to the questioned cost items, we also found that the State (1) allocated funds to school districts without making and documenting a determination for each school district that it did have "financial needs" as defined in the Federal regulations and implementing Bureau instructions, (2) advanced funds to school districts without determining the accuracy of and reasons for reported unexpended JOM fund balances from the prior years, and (3) did not inform the BIA of the unexpended JOM fund balances at the school districts.

In the event there is a need for additional information by your office concerning the enclosed report, please contact this office at the above address. Also, please provide this office with copies of correspondence with the State of Oklahoma and other cognizant parties relating to the audit report.

RALPH E. ANDERSON,
*Acting Regional Director.*

Enclosure.

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U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., July 13, 1973.*

Memorandum to: Assistant to the Secretary for Indian Affairs.
From: Director, Audit Operations, Office of Survey and Review.
Subject: Report on audit of Johnson-O'Malley contracts between the Bureau of Indian Affairs and the Oklahoma Department of Education, Oklahoma City, Okla.

The attached letter from the Superintendent, Oklahoma State Department of Education, comments on the issues raised in the subject audit report. Your staff may wish to consider the Superintendent's comments in future Johnson-O'Malley contract negotiations with the State of Oklahoma.

JAMES R. PIERCE.

Enclosure.

STATE DEPARTMENT OF EDUCATION,
*Oklahoma City, Okla., July 3, 1973.*

Mr. WILLIAM A. BUTRON,
*Regional Director, Office of Survey and Review, Audit Operations, Region II, Lakewood, Colo.*

DEAR MR. BUTRON: We appreciate the opportunity to respond to issues which were discussed in the June 4th JOM audit review with Mr. George Vonesh and Mr. Jim Lowe.

Many of the audit findings were resolved in FY 1973, however we will respond to specific issues mentioned in your report which covered FY 71 and FY 72.

The bulk of the questioned costs pertain to costs associated with Non-Indian student participation in JOM funded special programs.

In the State of Oklahoma we do not have Indian reservations and our Indian students are attending some 130 schools and in most cases they only comprise between 10–40 percent of the total enrollment of their individual school. We are of the opinion that applying a strict percentage based on Indian enrollment is not a workable plan and JOM funded projects cannot be justifiably limited to Indian students in our totally integrated school system. The reasons are as follows:

1. The vast majority of our schools would not be financially able to fund the Non-Indian share of enrichment projects designed to help Indian students, therefore the entire project might be eliminated.

2. To say that only Indian students may benefit from JOM funded projects would foster segregation and this is contrary to the State plan.

Example: It would be absurd to limit a Teacher Aide funded with JOM funds and working in Kindergarten, to helping only with the Indian students. The class may have 30% Indian enrollment and we cannot place all Indian students in one classroom. We feel that Indian students should associate with Non-Indians and that their social adjustment is as important as gaining knowledge. Furthermore, the local school does not have financial resources to pay 70% of the Teacher Aide's salary, therefore the project would have to be eliminated.

Teacher Aides are the only type of personnel to be funded 100% from JOM funds. Others such as counselors and special teachers are funded on a percentage basis, usually two times the percentage of Indian enrollment. We are of the opinion that by employing qualified Indians to serve as Teacher Aides, we are justified in funding 100% of their salary. Having an Indian Aide in the classroom gives the Indian student someone to identify with, also bilingual Aides are utilized in the lower grades to improve communications. Self-Image of Indian students is improved. Indian Teacher Aides help bridge the gap between the Indian community and the school.

The Oklahoma State Plan in 1971 and 1972 did not specify funding on strict percentages based on Indian enrollment nor did the contract provide specific guidelines.

We do not provide JOM funds to schools to be used for basic support, our projects are over and above the basic program required by state school law.

The cost of reference books and "Indians of Today" books were questioned because they are used by all students not just Indians and also because these items were not included in the approved budget.

These publications are not part of the required materials in schools, they were over and above the basic items required for accreditation.

Verbal approval was given by the Area Director of Muskogee Area Office to acquire these books.

The following changes are included in the 1974 State Plan and will respond to the audit findings.

1. Establishing financial need of a school district. In addition to voting the full 35 mills and otherwise qualifying for state aid, when a school has a general fund surplus in excess of 10% of their operating budget, a documented analysis of the district's financial needs must be made before the program can be funded.

2. Approved budget items. The state will present their operational budget broken down by types of special programs. Deviation in excess of 10% from a line item will require advance approval in writing from the BIA.

3. A cost reimbursable plan will be used to fund individual schools in FY 74. This will preclude any carryover funds and erroneous reporting by local schools at end of fiscal year.

The auditing team is to be commended on the professional manner in which they conducted the review. Also their personal attitude and approach made them welcome in the State Office and in the selected schools.

We have revised the State Plan and contract in response to the issues and recommendations made by the audit team and are of the opinion this will strengthen the administration of the Johnson-O'Malley program in Oklahoma.

Sincerely,

LESLIE FISHER,
*Superintendent of Public Instruction.*

### AUDIT FINDINGS—QUESTIONED COSTS

*Ineligible student participation in JOM special programs*

Approximately 80 percent of the total questioned costs pertain to costs associated with ineligible student participation in JOM special programs. In summary, questioned costs in this category totaled $343,750 as follows:

| | |
|---|---|
| Fiscal year 1971 | $140,753 |
| Fiscal year 1972 | 202,997 |
| Total questioned | 343,750 |

The term "ineligible student" as used here and elsewhere in the report means both non-Indian students and Indian students who do not possess one-fourth or more degree of Indian blood. Ineligible student participation was found in each of the 23 school districts visited, and we believe that this situation exists in all JOM schools in Oklahoma having special programs. In addition, we noted that ineligible student participation occurred in all types of JOM funded special programs, not just a selected few. For example, at the Broken Bow School District during fiscal year 1972, JOM funds were used to pay $3,156 in salary and fringe benefits of a teacher aide assigned to the first grade. Our review of the program disclosed that this particular aide worked with all students in the class and not just eligible Indians. Since eligible Indian enrollment in the first grade comprised only 13 percent of the students in that class, we consider only 13 percent, or $410, of the amount paid to be properly chargeable to JOM. The balance of $2,746 was questioned because it is our opinion it should have been funded from sources other than JOM.

Another example involved the use of JOM funds to pay a portion of a counselor's salary at the Oaks Mission School District during fiscal year 1972. JOM funds were used to pay $5,510 of the counselor's total salary of $7,245 which included fringe benefits. Our review of the program disclosed that the counselor worked with all students in grades one through twelve, of which 55 percent were Indian. We believe that only 55 percent of the total salary, or $3,985, is a proper JOM cost and have questioned the balance of $1,525.

The foregoing examples are typical of what we encountered at all 23 school districts visited. In our opinion, the application of percentages based on eligible student enrollment is the best method available for determining allowable costs to assure strict compliance with the provisions of the JOM Act. The selection of such a method was necessary because: (1) the BIA has not established any specific guidelines relative to the use of JOM funds for special programs serving both eligible and ineligible students, and (2) the contract itself provides only very general guidelines on the use of JOM funds for special programs.

The percentage method of allocating costs was discussed with cognizant school district officials at the completion of each site visit. Their reaction to it ranged from favorable to unfavorable. Those against it generally took one or more of the following positions:

1. Segregation would be fostered.
2. The JOM program would be eliminated.
3. Bookkeeping would become too involved.

The percentage method of funding would not foster segregation since it merely means that JOM funds would be used to fund a program in direct proportion to the number of eligible Indian students participating in the program. Funding from other sources should be used to support the ineligible student participants.

Regarding the second reason, the objection is that certain school districts could not raise sufficient funds to support ineligible students participating in JOM funded programs. Consequently, entire programs would have to be eliminated. If the school districts could not finance the ineligible student portion, then it is possible that some programs might have to be restructured or eliminated.

The third objection has some merit in that the application of the percentage method would entail additional bookkeeping at both the state and school district levels. However, this is necessary for compliance with the intent of the Act and the Federal regulations.

Notwithstanding the above objections, we questioned costs in the above described situations under the interpretation that JOM funds must be used for eligible students—except where the funds are justified and provided to school districts as supplemental funds for basic support.

*Basic support items classified as special programs*

The Contractor classified some programs at both the state and school district levels as JOM special programs. In our opinion, these programs and the expenditures related thereto are more in the nature of basic support in that they comprise items which we would normally expect a school district to provide to all students. Accordingly, we have questioned costs of $33,483 related to these programs as follows:

| Description | Fiscal year— 1971 | 1972 | Total |
|---|---|---|---|
| State level: Publications and reference books | 0 | $16,885 | $16,885 |
| School district level: | | | |
| Anadarko | $2,021 | 1,614 | 3,635 |
| Lost City | 0 | 4,529 | 4,529 |
| Wright City | 0 | 2,750 | 2,750 |
| Bell | 0 | 2,697 | 2,697 |
| Talihina | 0 | 2,207 | 2,207 |
| Plainview | 0 | 780 | 780 |
| Total | 2,021 | 14,577 | 16,598 |
| Total questioned costs | 2,021 | 31,462 | 33,483 |

Specific details on the foregoing items are presented in the ensuing paragraphs.

*1. State level.*—During fiscal year 1972, the Contractor used JOM funds to acquire publications and reference books which were in turn distributed to participating JOM schools in Oklahoma. The total cost of these books was $16,885, classified as follows:

| Description: | *Amount* |
|---|---|
| "Indians of Today" textbook | $700 |
| Compton's Encyclopedia | 3,630 |
| Encyclopedia Britannica | 12,555 |
| Total questioned | 16,885 |

Our review at the school districts visited and discussions with applicable school district officials disclosed that these publications were for the general use of all students. Therefore, we consider these as expenditures for basic support; i.e., for items that are a normal part of the operations of a school district, and have questioned the costs in their entirety.

As an added point, these costs could also have been questioned since the items were not included in the approved budget. Although the Indian Education Administrator for the State informed our auditors that oral approval was granted by the former Area Director of the Muskogee Area Office to acquire these books, there was no documentation to substantiate this at either the Area Office or in the State Office.

*2. School district level.*—Costs applicable to programs conducted at the school district level which we consider to be basic support and which we are questioning total $16,598. A breakdown of these costs by objective category is shown below.

| School district | Teachers/ teacher aides | Supplies/ equipment | Transportation | Total |
|---|---|---|---|---|
| Anadarko | $3,635 | | | $3,635 |
| Lost City | 4,529 | | | 4,529 |
| Wright City | | $2,750 | | 2,750 |
| Bell | | 1,697 | $1,000 | 2,697 |
| Talihina | | 2,207 | | 2,207 |
| Plainview | | 780 | | 780 |
| Total questioned | 8,164 | 7,434 | 1,000 | 16,598 |

The costs questioned at the Anadarko School District for both fiscal years represent the salary and related benefits of a teacher aide assigned to the West Junior High School. Our review of the program disclosed that this particular aide's duties were primarily secretarial in nature and did not include contact with the Indian students. At the Lost City School District, the questioned costs represented the salaries of a class reduction teacher ($4,229) and a teacher aide serving as a materials specialist ($300). Oklahoma school regulations provide that the teacher-pupil ratio in an elementary school must not exceed the ratio of 1 to 35. Had JOM funds not been provided for a class reduction size teacher, the Lost City School District would not have been able to satisfy this requirement in grades three through six since each teacher would have been responsible for approximately 50 students. The materials specialist, also funded through Title I, was primarily concerned with visual aids and duplicating for the school district as a whole.

Supplies and equipment were questioned in their entirety at the above school districts inasmuch as the supplies were of a general nature utilized by all students. Finally, the $1,000 questioned at the Bell School District represented routine items used in the general maintenance of the district's school buses.

The above expenditures do not represent special programs designed to meet the needs of eligible Indian students. They are costs which a school district would incur in its normal day-to-day operations. Accordingly, the costs associated with these programs are questioned on the basis of improper classification as special programs.

*Variances from approved budgets*

The BIA has incorporated into the annual contracts the approved operational budgets covering the anticipated expenditures of JOM funds. We interpret this to mean that the BIA expects adherence to the approved budgets by the Contractor. Therefore, we have questioned costs incurred at both the state and school district levels attributable to deviations from the approved budgets without specific written approval from the BIA. Costs so questioned total $49,307 as follows:

| Description | Fiscal year |  |  |
|---|---|---|---|
|  | 1971 | 1972 | Total |
| State level: |  |  |  |
| Workshops | $5,188 | $11,694 | $16,882 |
| In-service training | 0 | 28,372 | 28,372 |
| Total | 5,188 | 40,066 | 45,254 |
| School district level: |  |  |  |
| Bell | 0 | 3,068 | 3,068 |
| Marvetta | 0 | 328 | 328 |
| Lookeba-Sickles | 357 | 300 | 657 |
| Total | 357 | 3,696 | 4,053 |
| Total questioned costs | 5,545 | 43,762 | 49,307 |

Expenditures questioned at the State level are all the result of budget overruns.

The State's Indian Education Administrator informed the auditors that adherence to budgeted amounts was not required. He added that the overruns were attributable to greater attendance at the workshops than anticipated and the payment of stipends to in-service training participants. While the provisions of the contract are silent with respect to budget deviations, it is our opinion that inclusion of the operational budgets in the contract places a requirement for adherence thereto unless written approval to deviate is received from the BIA. In the absence of such approval we have questioned these costs.

Costs questioned at the school district level pertain to expenditures for the following items that were not included in the budget and were not approved by the State: (1) The Contractor allocated funds to the Bell School District for an art teacher. These funds were used by the school district to pay the salary of a shop teacher. (2) At the Maryetta School District, JOM funds allocated for classroom aides were used to pay a portion of the salaries of two library aides. We could also consider this item as basic support inasmuch as the duties of the library aides involved the setting up of the Dewey Decimal System in the school library. (3) At the Lookeba-Sickles School District, JOM funds were used to pay for art supplies (fiscal year 1971 only) and mileage payments to the art teacher (both fiscal years). JOM funds allocated for these two years covered only the art teacher's salary including benefits.

*Erroneous reporting*

We questioned costs of $4,704 at the following school districts:

| School district | Fiscal year 1971 | Fiscal year 1972 | Total |
|---|---|---|---|
| Idabel | $258 | $948 | $1,206 |
| Broken Bow | 0 | 473 | 473 |
| Canton | 0 | 2,804 | 2,804 |
| Colcord | 0 | 221 | 221 |
| Total | 258 | 4,446 | 4,704 |

The foregoing questioned costs were all the result of erroneous reporting by the school districts on the annual accounting of JOM program funds required by the Contractor. In each of the above instances, the school district reported expenditures in excess of what their respective accounting records could support. As a result, program funds provided to these school districts by the Contractor for the ensuing fiscal year were not reduced by these unobligated carryover balances.

*Recommendations*

Concerning our findings in this section of the report, we recommend the following:

1. The $343,750 of questioned costs attributable to ineligible student participation in JOM funded special programs at the 23 school districts included in our audit sample should be recovered. In addition, the BIA and the Contractor should determine and recover the contract payments attributable to ineligible student participation in such programs at the other 106 school districts.

2. The $33,483 of questioned costs attributable to programs classified as JOM special programs which were more in the nature of basic support programs, should be recovered. Here again, the BIA and the Contractor should determine and recover contract payments attributable to basic support items that were incorrectly classified as special programs at the other 106 school districts.

3. The BIA should resolve the matter of failure of the State Office and school districts to adhere to approved budgeted amounts. The $49,307 questioned should be recovered, or the BIA should review each line item overrun and allow or disallow the expenditures. Each decision, and the reasons therefor, should be made a matter of record. This also applies to any such overruns at the other 106 school districts that were not included in our audit sample.

4. The $4,704 questioned because of erroneous reporting by the school districts should be recovered. Since the erroneous reporting was found at only four of the 23 school districts included in our sample, and because of the relatively small dollar amount involved, we believe that a complete review of the prior cost reports of the other 106 school districts is not warranted.

5. Concerning our above recommendations, we believe that it is incumbent on the BIA and the Contractor to provide assurance that JOM funds are expended only in strict compliance with the JOM Act and the applicable Federal regulations. To this end we recommend that specific guidelines be developed and

incorporated in the contract and/or State Plan, particularly with regard to the use of JOM funds for special programs serving both eligible and ineligible students, and variances from approved budgets.

## OTHER FINDINGS

### *Determination of need*

The Oklahoma State Plan enumerates the criteria to be used in determining whether or not a school district is eligible to participate in the JOM program. Part 2.c. of its provisions states that school districts must "Justify the request for funds based on *the need* after all other sources of revenue are considered including funds from P.L. 874."

This stipulation is an adaptation from the Code of Federal Regulations (25 CFR 33.4(c)) which requires that when school districts are *eligible* to receive P.L. 874 aid, JOM funds can only be used to meet educational problems under extraordinary or exceptional circumstances.

Specifically referring to special programs, part 3 of the State Plan states that school districts with eligible Indian students, i.e. one-fourth or more degree of Indian blood, constituting 10 percent or more of their total enrollment qualify for JOM funds. When eligible student enrollment is less than 10 percent, school districts can still qualify for JOM funds "by showing an exceptional need in a specific given area."

Parts 5 and 6 of the State Plan are concerned with basic support funds. Generally, basic support was limited to school districts having inadequate enrichment funds after all other sources of funding were considered. However, the State Plan specifies that school districts *receiving* P.L. 874 aid are not eligible for JOM basic support funds.

As can be seen from the foregoing paragraphs, the primary factor in determining eligibility to receive JOM funds is financial need. Our review disclosed that the Contractor does little more than a cursory undocumented determination of a school district's financial need. We noted no instances in which an otherwise eligible school district was turned down because a determination had been made and documented that it did not have unmet "financial needs" as defined in the Federal regulations and implementing Bureau instructions.

Appended as exhibit IV to this report is a schedule showing general fund balances, JOM funds allocated, and the number and percentage of Indian enrollment for the 23 school districts audited. For fiscal year 1971, 15 of these school districts had general fund balances at June 30 in excess of JOM funds allocated for the fiscal year. At June 30, 1972, this situation was applicable to 18 of the school districts. These statistics show that these school districts would have difficulty demonstrating unmet financial needs.

Regarding the requirements set forth in the Code of Federal Regulations, the same 18 school districts received P.L. 874 aid during both fiscal years and three of the remaining five school districts received JOM basic support payments. Neither the 18 school districts nor the Contractor documented whether unmet educational problems under extraordinary or exceptional circumstances existed after considering the P.L. 874 aid received. However, only five of the school districts, namely Bell, Maryetta, Lost City, Talihina and Oaks Mission, appeared to be in financial need based on a comparison between general fund balances and JOM funds allocated. The first four of these five districts received P.L. 874 aid, while Oaks Mission received JOM basic support funds. The Oaks Mission Superintendent informed our auditors that his district could have qualified for P.L. 874 aid.

All 23 school districts received JOM payments for special programs during fiscal year 1972, and all but the Plainview School District received similar payments during fiscal year 1971. Ten of these school districts had Indian enrollments of less than 10 percent, thereby requiring a showing of exceptional need in a given area in accordance with the State Plan. This was not done, and we were able to determine that such a need existed only at one school district, Ardmore, where the need was attributable to the presence of a BIA dormitory, Carter

Seminary, located within Ardmore's boundaries. All Indian students residing at the dormitory attended Ardmore public schools and most of the JOM funds allocated were used exclusively for these students.

The JOM Act, implementing Federal regulations, and the annual contracts, including the Oklahoma State Plan, emphasize financial need as a primary element in JOM programs. Accordingly, we recommend that the Contractor evaluate and document the financial need of individual school districts prior to approving future JOM programs.

*Payments to school districts*

The Contractor allocates JOM funds to participating school districts based upon approved budgets for all programs with the exception of basic support and lunch payments. As previously explained in the introduction to this report, basic support payments were distributed on a formula basis to qualifying school districts, while lunch payments were computed at a fixed rate based upon the number of lunches served to eligible Indian students the preceding school year. In turn, school districts are required to report the status of JOM funds to the Contractor annually. Accurate reporting is a necessity to the Contractor inasmuch as carryover funds at the school district level are to be offset against the subsequent year's approved program.

As of June 30, 1972, school districts reported unexpended JOM funds on hand aggregating $121,070, an increase of $25,285 over the June 30, 1971, unexpended balance. However, our review disclosed that the above balances were overstated in some instances because some school districts neglected to transfer unexpended basic support and lunch funds from the JOM controlled fund accounts to their regular operating fund accounts. Because that portion of the unexpended balance applicable to basic support and lunch payments was not readily identifiable, we could not determine the correct amount of unexpended JOM funds on hand at the school district level.

At the school districts selected for audit, we reviewed the financial data reported to the Contractor. Several errors were noted, some of which led to the questioned costs already discussed in the appropriate section of this report.

The existence of the substantial unexpended balance, as well as the errors in reporting, indicates a weakness in the fiscal control of the program. In our opinion, these problems could be eliminated if the school districts were paid on a cost reimbursable basis instead of on an advance basis. This procedure should not place any additional financial burden on the school districts since funds are not advanced under current procedures until well into the school year.

Accordingly, we recommend that BIA require the Contractor to administer the program on a cost reimbursable basis with the school districts. Further, we recommend that an analysis of the current unexpended balances be made at all school districts to insure proper disposition of JOM funds previously advanced. The Indian Education Administrator was receptive to the recommendation that the school districts be paid on a cost reimbursable basis, and stated that he would give the matter further study.

## ACCOUNTING RECORDS AND INTERNAL CONTROLS

We have reviewed the accounting records and internal controls at the State Department of Education, Division of Indian Education, and at the 23 school districts selected for site visitation. Inasmuch as the sole function of the Division of Indian Education is to administer the JOM program for the State, identification and verification of JOM fiscal activity at the state level presented no audit problem.

The official accounting records for the school districts audited are maintained either by the applicable county treasurer or by an independent treasurer when permitted by state law. As required by state law, participating school districts have established a separate fund in their accounting systems to record JOM funds. For the most part, expenditures of JOM funds at the school districts visited were readily identifiable.

JOM funds received by the State from the BIA are deposited in a depository account independent of the official state budgetary accounts established by the State Budget Director and maintained by the Office of Fiscal Services, State Department of Education. It is the budgetary accounts which constitute the official state accounting records. All JOM related expenditures incurred at the state level are disbursed through the budgetary accounts. Basically, the depository account is used for two purposes:

1. To reimburse the budgetary account for JOM related expenditures.
2. To allocate JOM funds to participating school districts based upon approved program budgets.

In our opinion, internal control over the depository account is weak since it is outside of the official state accounting records. This deficiency is partially offset by the fact that checks drawn on the depository account require the signature of both the Indian Education Administrator and the Deputy State Superintendent of Public Instruction. If our recommendation regarding payments to school districts on a cost reimbursable basis is implemented, the deficiency will be automatically eliminated if the claims for reimbursement are processed through normal state channels. However, we are not making any further recommendation at this time because we were advised by State Department of Education officials that legislation is currently pending which would repeal that section of the Oklahoma statutes which authorizes the existence of independent accounts.

The State Department of Education, Division of Indian Education, is audited at least biennially by the Office of the State Examiner and Inspector. The last audit performed covered the 2-year period ended June 30, 1971. The Oklahoma Public School Audit Law, passed in 1967, requires that each school district in the State be audited at least annually by State-approved independent public accountants. As part of our examination, we reviewed the reports generated from the foregoing audits. While no serious discrepancies were reported, we noted that neither the State Examiner and Inspector nor the independent public accountants audited for compliance with the contract provisions of Federal laws and regulations. Accordingly, we relied upon their work and limited the scope of our examination to matters of compliance with the provisions of the JOM Act, as amended, the terms of the contracts, including the applicable State Plan, and other Federal regulations and directives applicable in the circumstances.

## INDIRECT COSTS

The Contractor did not charge any indirect costs to the JOM program. As required by the provisions of the fiscal year 1972 contract, the Contractor did absorb the cost of office rent, utilities, postage and State personnel fees applicable to the Division of Indian Education for fiscal year 1972.

## OPINION

In our opinion, the approved audited costs shown in exhibit II of $344,539 in fiscal year 1971, and $522,485 in fiscal year 1972, were properly incurred in accordance with the terms of the contracts and applicable Feederal laws and regulations in effect during the contract period. This opinion is qualified, however, to the extent that the school districts involved may not have had unmet financial needs as defined in the Federal regulations and implementing BIA instructions (see pages 15 through 18 of this report).

## EXHIBIT I

### SUMMARY OF AUDITED COSTS CONTRACT NOS. GOOC14201591 AND GOOC14201887 BETWEEN BIA AND OKLAHOMA STATE DEPARTMENT OF EDUCATION FOR THE PERIOD JULY 1, 1970, THROUGH JUNE, 30, 1972

| | JOM receipts and expenditures | Questioned costs | Unaudited costs | Approved audited costs |
|---|---|---|---|---|
| Funds available to State: | | | | |
| Balance forward, July 1, 1970 | $59, 299 | | | |
| Receipts under BIA contracts: | | | | |
| Contract GOOC14201591 fiscal year 1971 | 1, 552, 750 | | | |
| Contract GOOC14201887 fiscal year 1972 | 1, 901, 636 | | | |
| Other | 320 | | | |
| Total funds available | 3, 514, 005 | | | |
| Expenditures by State: | | | | |
| Fiscal year 1971 | 1, 428, 718 | $148, 577 | $935, 602 | $344, 539 |
| Fiscal year 1972 | 2, 054, 469 | 282, 667 | 1, 249, 317 | 522, 485 |
| Total expenditures by State | 3, 483, 187 | 431, 244 | 2, 184, 919 | 867, 024 |
| Balance forward, June 30, 1972 | 30, 818 | | | |

## EXHIBIT II

### DETAILS OF AUDITED COSTS, CONTRACT NOS. G00C14201591 AND G00C14201887 BETWEEN BIA AND OKLAHOMA STATE DEPARTMENT OF EDUCATION FOR THE PERIOD JULY 1, 1970, THROUGH JUNE 30, 1972

| | Fiscal year 1971 (contract G00C14201591) | | | | Fiscal year 1972 (contract G00C14201887) | | | |
|---|---|---|---|---|---|---|---|---|
| | JOM receipts and expenditures | Questioned costs [1] | Unaudited costs | Approved audited costs | JOM receipts and expenditures | Questioned costs [1] | Unaudited costs | Approved audited costs |
| Funds available to State: | | | | | | | | |
| Balance forward from prior year | $59, 299 | | | | $183, 331 | | | |
| Receipts under current contract | 1, 552, 750 | | | | 1, 901, 636 | | | |
| | | | | | 320 | | | |
| Total funds available | 1, 612, 049 | | | | 2, 085, 287 | | | |
| Expenditures by State, payments to school districts: | | | | | | | | |
| Adair County: | | | | | | | | |
| Bell | 13, 804 | 0 | $3, 177 | $10, 627 | 32, 445 | $6, 107 | $1, 447 | $24, 891 |
| Maryetta | 13, 761 | $5, 511 | 1, 260 | 6, 990 | 19, 238 | 8, 412 | 698 | 10, 128 |
| Westville | 6, 718 | 4, 553 | 1, 218 | 947 | 7, 323 | 4, 242 | 563 | 2, 518 |
| Blaine County: | | | | | | | | |
| Canton | 17, 410 | 8, 660 | 1, 726 | 7, 024 | 30, 836 | 18, 432 | 857 | 11, 547 |
| Watonga | 10, 276 | 8, 524 | 81 | 1, 671 | 11, 084 | 8, 194 | 564 | 2, 326 |
| Caddo County: | | | | | | | | |
| Anadarko | 32, 432 | 13, 308 | 2, 312 | 16, 812 | 40, 307 | 22, 185 | 866 | 17, 256 |
| Carnegie | 27, 342 | 9, 547 | 2, 638 | 15, 157 | 45, 741 | 18, 015 | 1, 430 | 26, 296 |
| Lookeba-Sickles | 3, 140 | 2, 533 | 368 | 239 | 8, 570 | 7, 199 | 190 | 1, 181 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Carter County: | | | | | | | | |
| Ardmore | 19, 791 | 3, 682 | 7, 160 | 8, 949 | 22, 627 | 2, 324 | 0 | 20, 303 |
| Dickson | 5, 394 | 3, 985 | 2, 975 | (1, 566) | 9, 069 | 5, 513 | 2, 395 | 1, 161 |
| Plainview | 771 | 0 | 771 | 0 | 4, 639 | 2, 580 | 439 | 1, 620 |
| Cherokee County: | | | | | | | | |
| Grandview | 6, 204 | 1, 747 | 331 | 4, 126 | 10, 707 | 5, 932 | 487 | 4, 288 |
| Lost City | 15, 204 | 2, 492 | 2, 427 | 10, 285 | 33, 493 | 9, 192 | 934 | 23, 367 |
| Delaware County: | | | | | | | | |
| Colcord | 2, 927 | 1, 439 | 1, 081 | 407 | 8, 472 | 5, 814 | 611 | 2, 047 |
| Jay | 31, 023 | 20, 591 | 3, 797 | 6, 635 | 42, 289 | 27, 474 | 2, 013 | 12, 802 |
| Oaks Mission | 27, 204 | 3, 811 | 12, 216 | 11, 177 | 37, 774 | 6, 030 | 10, 211 | 21, 533 |
| Kay County: Ponca City | 19, 750 | 5, 946 | 2, 417 | 11, 387 | 32, 770 | 6, 932 | 9, 272 | 16, 566 |
| LeFlore County: Talihina | 28, 146 | 7, 779 | 2, 572 | 17, 795 | 33, 017 | 14, 881 | 1, 256 | 16, 880 |
| McCurtain County: | | | | | | | | |
| Broken Bow | 9, 096 | 12, 520 | 2, 007 | (5, 431) | 11, 565 | 8, 299 | 1, 249 | 2, 017 |
| Idabel | 4, 245 | 2, 641 | 1, 425 | 179 | 7, 460 | 5, 882 | 830 | 748 |
| Wright City | 13, 829 | 4, 509 | 7, 443 | 1, 877 | 20, 446 | 9, 672 | 5, 327 | 5, 447 |
| Pontotoc County: | | | | | | | | |
| Byng | 22, 790 | 12, 919 | 2, 124 | 7, 747 | 31, 265 | 14, 765 | 1, 063 | 15, 437 |
| McLish | 9, 424 | 6, 692 | 619 | 2, 113 | 13, 727 | 7, 640 | 357 | 5, 730 |
| Other school districts | 873, 457 | 0 | 873, 457 | 0 | 1, 206, 258 | 0 | 1, 206, 258 | 0 |
| Total payments to school districts | 1, 214, 138 | 143, 389 | 935, 602 | 135, 147 | 1, 721, 122 | 225, 716 | 1, 249, 317 | 246, 089 |
| Coordinators | 147, 813 | 0 | 0 | 147, 813 | 178, 886 | 0 | 0 | 178, 886 |
| In-service training Programs | 0 | 0 | 0 | 0 | 58, 372 | 28, 372 | 0 | 30, 000 |
| Teacher aide workshops | 20, 188 | 5, 188 | 0 | 15, 000 | 37, 694 | 11, 694 | 0 | 26, 000 |
| Publications and reference books | 0 | 0 | 0 | 0 | 16, 885 | 16, 885 | 0 | 0 |
| State administrative costs | 46, 579 | 0 | 0 | 46, 579 | 41, 510 | 0 | 0 | 41, 510 |
| Total expenditures by State | 1, 428, 718 | 148, 577 | 935, 602 | 344, 539 | 2, 054, 469 | 282, 667 | 1, 249, 317 | 522, 485 |
| Balance forward to next year | 183, 331 | | | | 30, 818 | | | |

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[1] Includes expenditures of carryover funds at the school district level from prior years which are not reflected in costs claimed and audited.

EXHIBIT III

SUMMARY OF QUESTIONED COSTS, CONTRACT NOS. G00C14201591 AND G00C14201887 BETWEEN BIA AND OKLAHOMA STATE DEPARTMENT OF EDUCATION FOR THE PERIOD JULY 1, 1970, THROUGH JUNE 30, 1972

| Description | Fiscal year 1971 (contract G00C14201591) | | | | | Fiscal year 1972 (contract G00C14201887) | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Ineligible student participation | Basic support | Budget variances | Erroneous reporting | Total | Ineligible student participation | Basic support | Budget variances | Erroneous reporting | Total |
| State level: | | | | | | | | | | |
| Teacher aide workshops | | | $5,188 | | $5,188 | | | $11,694 | | $11,694 |
| In-service training programs | | | | | 0 | | | 28,372 | | 28,372 |
| Publications and reference books | | | | | 0 | | $16,885 | | | 16,885 |
| Subtotal | | | 5,188 | | 5,188 | | 16,885 | 40,066 | | 56,951 |
| School district level: | | | | | | | | | | |
| Adair County: | | | | | | | | | | |
| Bell | | | | | 0 | $342 | 2,697 | 3,068 | | 6,107 |
| Maryetta | $5,511 | | | | 5,551 | 8,084 | | 328 | | 8,412 |
| Westville | 4,553 | | | | 4,553 | 4,242 | | | | 4,242 |
| Blaine County: | | | | | | | | | | |
| Canton | 8,660 | | | | 8,660 | 15,628 | | | $2,804 | |
| Watonga | 8,524 | | | | 8,524 | 8,194 | | | | 8,194 |
| Caddo County: | | | | | | | | | | |
| Anadarko | 11,287 | $2,021 | | | 13,308 | 20,571 | 1,614 | | | 22,185 |
| Carnegie | 9,547 | | | | 9,547 | 18,015 | | | | 18,015 |
| Lookeba-Sickles | 2,176 | | 357 | | 2,533 | 6,899 | | 300 | | 7,199 |
| Carter County: | | | | | | | | | | |
| Ardmore | 3,682 | | | | 3,682 | 2,324 | | | | 2,324 |
| Dickson | 3,985 | | | | 3,985 | 5,513 | | | | 5,513 |
| Plainview | | | | | 0 | 1,800 | 780 | | | 2,580 |
| Cherokee County: | | | | | | | | | | |
| Grandview | 1,747 | | | | 1,747 | 5,932 | | | | 5,932 |
| Lost City | 2,492 | | | | 2,492 | 4,663 | 4,529 | | | 9,192 |
| Delaware County: | | | | | | | | | | |
| Colcord | 1,439 | | | | 1,439 | 5,593 | | | 221 | 5,814 |
| Jay | 20,591 | | | | 20,591 | 27,474 | | | | 27,474 |
| Oaks Mission | 3,811 | | | | 3,811 | 6,030 | | | | 6,030 |
| Kay County: Ponca City | 5,946 | | | | 5,946 | 6,932 | | | | 6,932 |
| LaFlore County: Talihina | 7,779 | | | | 7,779 | 12,674 | 2,207 | | | 14,881 |
| McCurtain County: | | | | | | | | | | |
| Broken Bow | 12,520 | | | | 12,520 | 7,826 | | | 473 | 8,299 |
| Idabel | 2,383 | | | $258 | 2,641 | 4,934 | | | 948 | 5,882 |
| Wright City | 4,509 | | | | 4,509 | 6,922 | 2,750 | | | 9,672 |
| Pontotoc County: | | | | | | | | | | |
| Byng | 12,919 | | | | 12.919 | 14,765 | | | | 14,765 |
| McLish | 6,692 | | | | 6,692 | 7,640 | | | | 7,640 |
| Subtotal | 140,753 | 2,021 | 357 | 258 | 143,389 | 202,997 | 14,577 | 3,696 | 4,446 | 22.5716 |
| Total questioned costs | 140,753 | 2,021 | 5,545 | 258 | 148,577 | 202,997 | 31,462 | 43,762 | 4,446 | 282,667 |

## EXHIBIT IV

### GENERAL FUND SURPLUSES, JOM FUNDS ALLOCATED, AND INDIAN ENROLLMENT, CONTRACT NOS G00C14201591 AND G00C14201887 BETWEEN BIA AND OKLAHOMA STATE DEPARTMENT OF EDUCATION FOR THE PERIOD JULY 1, 1970, THROUGH JUNE 30, 1972

| | Fiscal year 1971 (contract G00C14201591) | | Fiscal year 1972 (contract G00C14201887) | | Indian enrollment [2] | |
|---|---|---|---|---|---|---|
| County/school district | General fund surplus at June 30, 1971 | JOM funds allocated [1] | General fund surplus at June 30, 1972 | JOM funds allocated [1] | Percent | Number |
| Adair County: | | | | | | |
| Bell | $4,671 | $13,804 | $14,367 | $32,445 | 62 | 154 |
| Maryetta | 10,969 | 13,761 | 1,823 | 19,238 | 42 | 101 |
| Westville | 119,954 | 6,718 | 64,444 | 7,323 | 9 | 84 |
| Blaine County: | | | | | | |
| Canton | 10,559 | 17,410 | 47,976 | 30,836 | 28 | 136 |
| Watonga | 8,075 | 10,276 | 32,906 | 11,084 | 8 | 101 |
| Caddo County: | | | | | | |
| Anadarko | 107,471 | 32,432 | 172,416 | 40,307 | 27 | 644 |
| Carnegie | 119,306 | 27,342 | 91,984 | 45,741 | 30 | 287 |
| Lookeba-Sickles | 21,589 | 3,140 | 32,430 | 8,570 | 5 | 23 |
| Carter County: | | | | | | |
| Ardmore | 729,645 | 19,791 | 456,707 | 22,627 | 3 | 164 |
| Dickson | 22,622 | 5,394 | 36,089 | 9,069 | 8 | 82 |
| Plainview | 44,786 | 771 | 22,981 | 4,639 | 8 | 55 |
| Cherokee County: | | | | | | |
| Grandview | 6,269 | 6,204 | 20,749 | 10,707 | 27 | 80 |
| Lost City | 1,699 | 15,204 | 4,706 | 33,493 | 44 | 94 |
| Delaware County: | | | | | | |
| Colcord | 9,932 | 2,927 | 9,398 | 8,472 | 14 | 97 |
| Jay | 157,853 | 31,023 | 218,648 | 42,289 | 24 | 374 |
| Oaks Mission | 23,774 | 27,204 | 4,757 | 37,774 | 48 | 214 |
| Kay County: Ponca City | 357,115 | 19,750 | 511,231 | 32,770 | 5 | 345 |
| LeFlore County: Talihina | 24,738 | 28,146 | 7,898 | 33,017 | 22 | 156 |
| McCurtain County: | | | | | | |
| Broken Bow | 1,278 | 9,096 | 59,578 | 11,565 | 8 | 192 |
| Idabel | 115,205 | 4,245 | 239,644 | 7,460 | 6 | 153 |
| Wright City | 64,189 | 13,829 | 89,573 | 20,446 | 24 | 176 |
| Pontotoc County: | | | | | | |
| Byng | 75,376 | 22,790 | 68,379 | 31,265 | 9 | 130 |
| McLish | 13,145 | 9,424 | 18,282 | 13,727 | 21 | 51 |
| Total | 2,050,220 | 340,681 | 2,226,966 | 514,864 | .......... | 3,893 |

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[1] Includes basic support payments and lunch reimbursements.
[2] Based upon enrollment for 1971-72 school year.

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U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
*Washington, D.C., December 10, 1970.*

Memorandum to: Area Directors—Superintendents: Choctaw, Seminole, Cheerokee, and Miccosukee Agencies; Executive Officer, Indian Affairs Data Center.
From: Commissioner of Indian Affairs.
Subject: Outplacement program.

It is the policy of the Bureau of Indian Affairs to transfer to those Indian tribes or organizations desiring such, the responsibility for the administration of programs and services currently provided by the Bureau. This has usually been accomplished with little or no effect on employees engaged in the service being provided. In those instances where employees have been affected, the Bureau has successfully placed those employees in other jobs.

As the takeover of services by Indian tribes or organizations is accelerated, it is expected that the need to find jobs for affected employees will also increase. In such instances the Bureau is prepared to make every reasonable effort to place affected employees, with their cooperation, in other Federal jobs. In making such effort and as a first step, affected employees will be consulted and a determination made as to their job and location preferences. When these determinations have been made, the affected employees will be given priority consideration for placement in a like position within servicing jurisdiction of the appointing office. Should such placement efforts prove unsuccessful the Central Office Division of Personnel Management will be so notified. That office will coordinate placement efforts between Areas, and when necessary, recommend the placement of a freeze on filling appropriate vacancies on a Bureau-wide basis.

If the above positive placement efforts have been unsuccessful, the reduction in force process will be undertaken. Each employee will be accorded his rights as provided by the Civil Service Commission regulations.

Concurrently, with positive placement efforts, contacts will be made with other Federal agencies and offices in the locale of the employee's duty station in the event the employee is not interested in making a geographical change.

This document will be cited as an interim procedure pending development and issuance of a formalized release which will include Departmental cooperation in placement efforts.

Employees may be assured that, with their cooperation, their interests will be protected.

LOUIS R. BRUCE,
*Commissioner.*

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U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
*Washington, D.C., April 24, 1972.*

MEMORANDUM
To: Holders of 20 BIAM.
From: Commissioner of Indian Affairs.
Subject: Section 6, Education Services, Through Indian Organization

This release provides informational guidelines for the development and implementation of new and Bureau school programs through the contract medium.

Local operation of educational programs for Indian children and youth by tribal and other Indian groups is a major cornerstone of the Indian Involvement Program for self-determination. The implementation of contracted school operations provides one approach for total community participation.

LOUIS R. BRUCE,
*Commissioner.*

## BUREAU OF INDIAN AFFAIRS MANUAL (20 BIAM)

### INTRODUCTION—TABLE OF CONTENTS

6.1 Introduction.
6.2 Statutory Authority.
6.3 Policy.
6.4 Purpose.
6.5 Definitions.
6.6 Goals to be Achieved.
6.7 Appropriations.
6.8 Limitation on Agreement.
6.9 Conditions for Contracts.
6.10 Conditions that Must be Observed.
6.11 Bureau Technical Assistance.
6.12 Specific Education Provisions.
Illustration 1.

### INDIAN INVOLVEMENT PROGRAMS—EDUCATION SERVICES THROUGH INDIAN TRIBES

### *6.1 Introduction*

The primary goal and function of Education, as a student-centered process, is to bring about relevant learning on behalf of all children and youth. This process—if it is to be universal—must be all-encompassing, creative, and realistic.

Indian education, before Columbus, was a family, community and tribally-centered activity. The family and community prepared the youth of the tribe for effective, productive adult life in many formal and informal ways. The transmission of cultural and life skills had the highest priority. In many ways, the Indian concept of community-centered control of the education process was duplicated by the educational system of the United States. In fact, the basic covenants of this Nation entitle each citizen to share in the development of those social and political institutions which determine his personal welfare and social well-being.

It is the intent of the Bureau to reestablish community control of the educational process among Indian tribes and groups. Indian parents and communities have seldom been permitted the right or opportunity to demonstrate and apply their own maturity and responsibility in helping decide how and for what their children are to be educated in Federal schools operated by the Bureau. It is the objective of the Bureau to give Indian parents this responsibility.

The manner in which Tribes/Advisory School Boards assume their responsibilities will largely determine the future of local operation of Indian Education in this country. Local Education functions, complex and challenging enough even at periods of stability, have become doubly difficult today with the steady growth in student enrollment, the activities of employee organizations, court decisions on student rights, and needed new patterns of school programs. As a Nation, we must provide the opportunity for more extensive and better qualitative education for Indian people than ever before in our history. The major responsibility lies in the hands of Indian and Alaska Native School Communities. It is in the national interest, and in the interest of individual children and youth, to place it there.

This Section reflects statutory references and the formal guidelines whereby Indian decision-making practice can be transformed into a vital process of education self-determination compatible with the structural and administrative patterns generally accepted for American Education. The guidelines are applicable to Indian Involvement Programs where Bureau schools are currently established, or for those situations where new and supplementary programs can be initiated. Some modification of these guidelines, in part, may be necessary due to the unique composition of Federal schools in Alaska.

### 6.2 *Statutory authority*

Administration of the Indian school program is vested in the Commissioner of Indian Affairs, subject to the direction of the Secretary of the Interior by the Act of April 30, 1908. (35 Stat. 72; 25 U.S.C. 295).

A. *Specific statutory authority.*—The statutory authority under which Indian and Alaska Native groups can provide education services is the Act of June 4, 1936 (49 Stat. 1458; 25 U.S.C. Sec. 452), known by its popular name as the "Johnson-O'Malley Act." The codification of the Act is quoted below:

"That the Secretary of the Interior be, and is hereby authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, monies appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, monies appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.

"Sec. 2. That the Secretary of the Interior, in making any contract herein authorized, may permit such contracting party to utilize, for the purposes of this Act, existing school buildings, hospitals, and other facilities, and all equipment therein or appertaining thereto, including livestock and other personal property owned by the Government, under such terms and conditions as may be agreed upon for their use and maintenance.

"Sec. 3. That the Secretary of the Interior is hereby authorized to perform any and all acts to make such rules and regulations, including minimum standards of service, as may be necessary and proper for the purpose of carrying the provisions of this Act into effect: Provided, that such minimum standards of service are not less than the highest maintained by the States or Territories within which said contract or contracts, as herein provided, are to be effective.

"Sec. 4. That the Secretary of the Interior shall report annually to the Congress any contract or contracts made under the provisions of this Act, and the monies expended thereunder."

(1) *Delegation of authority.*—In Section 12(a) of Secretarial Order No. 2508, as amended, the Secretary of the Interior delegated to the Commissioner of Indian Affairs authority for the negotiation and execution of Johnson-O'Malley contracts. In 10 BIAM 3, the Commissioner redelegated this authority to the Area Directors.

B. *Other authority.*—The following other authorities could be used by Indians to become involved in the educational process that is provided by the Bureau. They would vary in scope and operation, depending upon the authority used. These authorities are mentioned briefly below.

(1) *Tribal direction of Bureau employees.*—The conditions of the Act of June 30, 1834 (4 Stat. 737, 25 U.S.C. 48) under which a tribe may direct (with certain restrictions) Bureau employees are outlined in 20 BIAM 4. Under this Act, limited direction of Bureau school and related staff on a reservation could be given only to a tribal officer, and no monies could be placed in tribal control for expenditures in its own right. The tribe, through an Advisory School Board, could, by its direction of Bureau employees, exert some influence on the learning system to more nearly reflect the desires of the community.

(2) *Products of Indian industry.*—Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47), known by its popular name as the "Buy Indian Act," allows negotiations with Indian persons, tribes or groups on a noncompetitive basis. Further details are provided in 20 BIAM 5.

C. *The need for incorporation.*—Indian tribes or Advisory School Boards desiring to contract with the Bureau to provide educational services for eligible Indian children must be incorporated if the Johnson-O'Malley Act is used as the authority. Under this Act, Tribes or Advisory School Boards contracting with the Bureau must be private corporations. Indian Tribes incorporated under the Indian Reorganization Act by charter of the Federal Government, under laws of a State, or by the Indian Tribe of which the tribal entity is a part, meet this condition. Incorporation is not a requirement if any of the other authorities mentioned are used.

### *6.3 Policy*

When a Tribe (or the equivalent in Alaska) initiates action to legally establish and elect school boards and to operate a school program currently being operated by the Bureau, or to start new school programs, it is Bureau policy to actively assist them in every possible way to develop and implement proposals for such an undertaking.

Proposals will be submitted, reviewed, and evaluated as previously described in 20 BIAM 3. The Bureau will make available its Education, Contract and other staff to assist under the provisions, terms and conditions outlined herein.

A. No new non-Bureau school program proposals will be considered for funding to replace or supplant existing local public school programs.

B. Tribal authorities may choose to operate specific program components at their existing Bureau school facility. Such components include, but are not limited to: Elementary and Secondary Education Act Title programs (P.L. 91-230); maintenance programs; food service programs; pupil transportation programs, etc. These contractual components will be negotiated under current Federal regulations.

### *6.4 Purpose*

The purpose of the above policy is to provide maximum involvement in the education process by the governing body of a tribe through advisory school boards, parents, students, and community in meaningful decision-making activities related to the local school program. When the Tribe/Advisory School Board assumes operation of a school program, the community is given an opportunity to influence the learning system in keeping with parental desires. However, each school program activity must remain within the scope of the education mission, as justified to the Congress when the Bureau's appropriations are requested along with such other conditions as the Congress may determine and specify. Functions unrelated to the academic purpose for which the fiscal appropriations were requested and obtained from the Congress cannot be undertaken without the Bureau first obtaining prior approval of the Congress. Reprogramming of Education funds for purposes other than those justified will be processed after mutual understanding is reached between the parties.

### *6.5 Definitions*

A. *School board.*—Means a legally established and elected policy-making body with certain authorities and responsibilities given to it by the governing body of the Tribe (or equivalent authority in Alaska). These authorities and responsibilities should be specifically listed in the school board's constitution, bylaws, amendments, and special guidelines.

B. *School district.*—Means the geographic area over which the Indian School Board has jurisdiction for educational purposes to carry out the authorities and responsibilities given it by the governing body of the Tribe.

### 6.6 *Goals to be achieved*

A. *Goals.*—The following goals can be achieved by Indians operating local schools.

(1) *Training.*—Provide meaningful training and personal development for school boards in the operation of the local educational system in serving their own needs.

(2) *Community development.*—Maximize community involvement in the local educational process by better understanding between the local school, the home, and the community.

(3) *Responsibility.*—With appropriate preparation and support, encourage the school board to accept complete responsibility for the teaching-learning systems of the school and the efforts of its students.

(4) *Student participation.*—Increase meaningful student interest and participation as concerned coequals in the development and implementation of an effective and omnicultural school program.

### 6.7 *Appropriations*

A. *Use.*—Funds appropriated to the Bureau for educational purposes cannot be made available for any purpose other than the operation of schools and related services program.

B. *Control.*—The accountability of all appropriations for educational purposes remain vested in the Bureau. Contractors must maintain an acceptable fiscal accounting system in order to account for the proper expenditure of contract funds and to render necessary reports to the Bureau at specified intervals.

C. *Funding levels.*—Appropriations (1740 funds) for the education of Indian and Alaska Native children are made available by the Congress for use in operating Federal schools or for schools operated under contract to the Bureau.

(1) Bureau schools that are operated under contract will, in the first 2 years, receive 1740 funds from the Bureau as part of the existing programed budget cycle, and will receive 1740 funding allocations comparable to Bureau schools of similar type and enrollment levels.

(2) Non-Bureau new school programs that are operated under contract will receive 1740 funding levels similar to Bureau schools of comparable type and enrollment. Pupil costs, staffing patterns and salaries, and related factors will be budgeted accordingly, with appropriate and reasonable startup costs included, during negotiation of the contract. Program proposals would need to be submitted 18 months in advance for inclusion in the Bureau's budget requests to the Congress.

### 6.8 *Limitation on agreement*

A. *General.*—Tribal/school board operation of new or Bureau school programs can only be accomplished under the statutory authority cited above under Section 6.2.

B. *Specific.*—Contracts or agreements for operation of school programs are to be entered into in accordance with the statutory authority, regulations, policies, and guidelines applicable to those specific programs. It is important that Indian groups and community members fully understand and appreciate the distinct difference between the 1834 Act and the Johnson-O'Malley Act. The statutory authority of each Act is quite specific and each has its advantages and limitations which the Indian group must consider.

### 6.9 *Conditions for contracts*

A. *Review committee.*—Agreements and contracts for tribal/school board operation of new or existing Bureau school programs may be entered into only after a program proposal has been submitted by an Indian Tribe/School Board and it has been reviewed, as outlined in 20 BIAM 3.

B. *Contracting authority.*—Only a properly authorized Contracting Officer can contractually commit the Bureau to an expenditure of funds or orally direct or authorize a contractor to proceed with work whether or not a written contract is later intended. For this reason, extreme caution is used in any discussions with actual or prospective contractors. All Bureau personnel are to conduct discussions as to preclude any assumption on the part of the prospective contractor that he will receive a negotiated contract from the Bureau.

C. *Program constraints.*—Various constraints must be adhered to in the operation of the school programs and activities, both prior to and during the contract period, and must be accepted by the Tribe/School Board. Specific Education

Programs Office provisions (given in Section 6.12) must also be considered by the Tribe/School Board and included as a part of the contract document before it can be executed.

D. *Renegotiation of the contract.*—Renegotiation of the contract is dependent upon the level of fiscal appropriation by the Congress; satisfactory performance of the terms of the contract by the contractor; and, a willingness of the contractor and the Bureau to continue the contract, either in its same form or in some modified arrangement.

### *6.10 Conditions that must be observed*

The following specific conditions, among others, must be observed by the prospective Indian contractor when interested in entering into a contract for performing educational services for the Bureau.

A. *Tribal council resolution.*—As stated in 20 BIAM 3, a full tribal council resolution must be submitted to the Bureau authorizing the tribe, local Indian group, or school board to explore negotiating for the total or partial operation of the local school system.

(1) Where a number of tribal entities coexist in a particular school service area, there must be agreement expressed in the tribal resolution, such concurrence based on the Tribal Council Bylaws for support or rejection of a resolution.

(2) *Election of school board.*—The tribal resolution must include the legal designation of an elected and incorporated school board. The election of a school board should be conducted by the tribal authority, or in cooperation with the Agency Superintendent. Prospective Board members should be nominated from the local community and should not be restricted solely to parents of children attending the school.

(3) *Qualification of school board.*—When the contractor is a school board, the tribal resolution must include evidence that the elected school board qualifies under the Johnson-O'Malley Act authority as a private corporation, private agency, or private institution chartered under the existing laws of the State or under the Indian Reorganization Act Charter of the Federal Government. The Board should have the authority, responsibility, and powers delegated to it to discuss, negotiate, execute and implement a contract for school operation.

(4) *Deadline.*—Tribal resolutions and letters of intent to operate a Bureau or new school program must be received by the Commissioner ***no later than January 1*** prior to the desired fiscal year of school operation which year begins July 1. For new school programs, submissions must be made 18 months prior to the desired fiscal year of operation.

B. *Program proposal.*—In addition to and apart from the tribal resolution, a school program plan must be prepared and submitted to the Bureau, using the appropriate application form, Report 20-01 (see attached Illustration #1). The proposal provides the initial momentum and, more importantly, the logic and validity for a negotiated school contract. The Bureau's Education Programs Office bases its approval of the proposed activity on the information set forth in the proposal. The preparation of sound proposals is facilitated by open consultation and liaison between Tribe/School Boards and the Bureau's Education Programs Office specialists at all times during the planning and preparation phase.

(1) *Deadline.*—The program proposal, using the appropriate application, Report 20-01, must be submitted and received by the Bureau's Education Programs Office *no later than March 1*, prior to the desired fiscal year of school operation which begins July 1.

C. *Parental referendum.*—The contractual option for local operation of a new or existing Bureau school program shall ultimately be decided by a referendum vote of the beneficiaries, i.e., the Indian parents or guardians of the children currently attending the Bureau school in question; or, its local non-Federal equivalent where no local Bureau school currently exists.

(1) *Appropriate time for referendum.*—The Tribe/School Board should have an opinion of community desires regarding the concurrence or opposition to the completed negotiated contract document. A referendum must be scheduled by the Tribe/School Board and completed prior to the formal signing of the contract.

(2) *Referendum results.*—To insure appropriate parental support for the negotiated contract option with the Bureau, the total vote cast shall not be less than 51 percent of those Indian parents entitled to vote in the school attendance area. A simple majority of the votes cast in support of the contract plan shall be required, or a greater majority as determined by the Tribal Council.

(3) *Referendum procedure.*—All aspects of the referendum shall be developed and implemented by the Tribal Council and School Board Chairman in accordance with the desired criteria.

D. *Summary of procedural steps and suggested time-line.*—A suggested minimum time-line anticipated for the procedural steps is outlined:

(1) Tribal resolution—7 days, or when Tribal Council meets.
(2) Election of school board—30 days.
(3) Incorporation of school board—30 days, if State chartering is required.
(4) Development of school program proposal—30 to 90 days.
(5) Negotiation of contract document—2 days.
(6) Local parental referendum—30 days.
(7) Processing of contract—21 days.

### *6.11 Bureau technical assistance*

Every society views the education of its children as one of the most important responsibilities entrusted to its agencies, whether these agencies be the home, the school, the church, or the community in general. The Bureau is most concerned with any and all types of arrangements that will provide Indian and Alaska Native children and youth the best education possible within the financial resources made available for that purpose. Indian parents share this desire and have consistently supported school programs that provide quality education services in keeping with their cultural heritage and traditions.

Therefore, the Indian people and the Bureau should be viewed as coequal advocates striving to meet the learning needs of all Indian children—the normal, the gifted, and the handicapped. To insure effective and efficient school programs, Indian parents and the Bureau need to give any proposed contract arrangement for providing school services the utmost study and analyses as to what is presently being done and what could be done in the future. A Tribe/School Board needs to consider the proposed contractual undertaking in critical detail and to analyze precisely the mechanics that will be developed to provide for the education of their children.

In this respect, the Bureau at all levels will render maximum cooperation, consultative assistance and technical support in any phase related to the development of a contract for educational services. Based on the varied needs of local schools and communities, additional resources from the State, colleges or universities, other Federal agencies, and private corporations should be explored and mobilized by the prospective Indian contractor to provide supportive assistance as desired. The Bureau's professional assistance from its Education Programs Office is available upon request at any stage of the undertaking.

Initial requests for assistance should be directed to the Agency Superintendent, with information copies forwarded to the Area Director, and to the following Central Office activity:

Bureau of Indian Affairs, Office of Education Programs, Division of Legislation and Policy Development, Washington, D.C. 20242.

### *6.12 Specific education provisions*

The following provisions are to be included as specific items in contract documents relating to tribal/school-board operation of new and Federal school programs.

These items are minimum elements which constitute a base rather than a ceiling that must be considered before the initiation, modification, and extension of quality educational programs to Indian and Alaska Native children and youth can be accomplished by contract. Viewed in this perspective, Indian contractors should consider these requirements as fundamental components for assuring:

(1) the relevant education of students,
(2) the integrity of Congressional appropriations, and
(3) the continuing legal responsibility of the Bureau for providing education to Indian and Alaska Native children and youth.

Therefore, except in the most unusual circumstances, these provisions are to be considered as nonnegotiable items and will be included in all Bureau contract documents relating to school program operations.

A. *School board:*

(1) An appropriate plan for development of School Board members to assume responsibilities in the operation of the school shall be developed. Minimum standards or guidelines recommended by the National School Boards Association, the State Education Department, and the Bureau should be used.

(2) No Tribe/School Board shall employ or approve the employment of any person in any capacity by the school if the person is related by consanguinity or affinity within the first degree to any member of the governing School Board.

(*a*) This section does not prohibit the continued employment of any person who is employed by a school on July 1, 1972, and who, on that date, is related within the prohibited degree to a member of the governing School Board.

B. *Program plan:*

(1) The Tribe, School Board, or other organization designated by the Tribe shall submit a program plan on Report 20-01 (attached Illustration #1) to serve as a general basis to administer and operate a particular school or education program. This plan shall include these related parts:

(*a*) *Identification of problems, assessment of educational needs, and a statement of educational philosophy.*—The first step is to identify the problems based on documented needs. A need is defined as the discrepancy between "what exists now" and "what should be." When the needs are defined for the school program, certain problems have to be overcome in order to achieve resolution of needs.

(*b*) *Determination and statement of goals and behavioral objectives.*—After the school needs have been identified, the program plan must proceed from the current state to the required state. To do this, program goals and objectives must be listed stating the intent for a proposed change. These program (or, behavioral) objectives include what is to be done, by whom it is to be done, under what conditions it is to be done, and what criteria will be used to determine their accomplishment.

(*c*) *Selection of solution strategies and tools.*—A plan to achieve school program objectives must include a series of specific, clearly described activities. These activities should contribute to desired changes that can be appropriately measured and assessed.

(*d*) *Implementation.*—The section on implementation relates to the critical steps needed for operation of the school program. Basically, it refers to the "how-to-do-it" portion of the proposed program. Detailed and itemized listings of staff positions and salaries, equipment and supplies, materials, inservice training and development, transportation, food program, etc., are required which establish and continue the educational environment for the students.

(*e*) *Determination of performance effectiveness.*—A major question for the Tribe/School Board will be to determine how well or how poorly the school program has achieved the behavioral objectives and reduced or eliminated the stated needs. Testing and evaluation procedures are natural tools for determining the extent to which the school program has achieved that which the school board set out to achieve by operation of the school. Hence, evaluation (both internal and external) of effectiveness is ongoing and summary in scope. It reveals not only weaknesses; but, the strengths of the school program which can be emphasized the following year are also highlighted.

C. *Records and Reports:*

(1) The school shall maintain complete permanent records of all students. Such records shall include academic marks, attendance, health, and other pertinent information, and shall be filed so they will be safe from fire and theft.

(2) Transcripts and permanent records of students, transferring from the school to another, shall be forwarded as soon as a written request has been made by the receiving school.

(3) An official transcript, a current health certificate, and a record of the certification of all professional personnel shall be kept in a safe and secure location.

(4) All employed and student personnel records which are of a personal nature shall be kept confidential.

(5) Records of all school funds shall be kept as prescribed by existing applicable Federal regulations and School Board policies.

(6) The school shall maintain inventories of Federal property as prescribed by existing Federal regulations and School Board policies.

(7) Pupil accounting and assessments shall be in accordance with procedures established by the Bureau. Accreditation reports shall be submitted to the State Department of Education as required.

(8) Preliminary budget estimates shall be submitted covering the anticipated cost of operating the school, including all support activities, for use in negotiations. These estimates shall be specific line-item units.

(9) A periodic progress program report and a fiscal report, both certified by the School Board President, shall be submitted on September 30, December 30, March 30, and June 30 to the Bureau. The program reports are to reflect student enrollment by age and grades; average daily attendance; progress toward program goals; program self-evaluation; personnel development; and, student-community participation. The fiscal reports are to reflect programming and use of all funds.

In addition, there will be an annual review, evaluation, and report of the total school program. The evaluation team will consist of persons designated by the tribe or School Board, the Bureau Contracting Officer, and a mutually acceptable third-party member. As many members as are desired may be designated so long as each of the contractual parties are equally represented.

(10) Other reports shall be provided as required by the Bureau Contracting Officer.

D. *Facilities operation and maintenance:*

(1) The buildings and grounds shall be kept clean, attractive and in good repair to protect the health and welfare of the occupants, to provide an adequate educational environment, to insure minimum depreciation, and to protect the Government's investment where Government facilities are being used.

E. *Personnel:*

(1) The professional and supportive school personnel shall meet employment standards and certification requirements as prescribed by the State Department of Education or the qualification standards of the Civil Service Commission, without regard to the source of financial support.

(*a*) Certain positions may be filled by individuals not holding such certificates provided they possess particular qualifications for the positions held and are approved by the School Board with the concurrence of the Tribal Council.

(2) All personnel, serving in academic supervisory capacities, shall hold valid certificates in the areas of their supervision.

(3) Counselors who spend 2 or more periods in counseling parents or students shall hold current valid certificates for counselors or meet State Department of Education standards. Other pupil personnel workers—school psychologists, school social workers, educators of handicapped children, et al.—shall meet acceptable professional or State certification standards.

(4) Inservice programs for staff development shall be provided to stimulate continued improvement of the school program.

F. *Food program:*

(1) Food programs shall conform with the minimum nutritional requirements prescribed by the United States Department of Agriculture, and/or the State Department of Education, and/or the requirements used by the Bureau in the schools it operates.

G. *Pupil transportation:*

(1) The school principal shall keep records of transportation costs and the number of pupils transported on a monthly basis.

(2) School bus equipment shall be kept in condition to operate safely at all times, shall conform to local public school and State Education Department specifications and State inspection requirements where applicable.

(3) All school buses purchased with contract funds shall meet all State requirements. The purchase of vehicles other than regular buses for pupil transportation purposes must have prior approval from the Contracting Officer if contract funds are used.

(4) School bus drivers shall meet qualifications and physical standards required by the State License Agency.

H. *School health program:*

(1) The School Health Program shall provide those services which will enable a child to achieve optimum health, to develop and to learn unhampered by any physical or emotional disability, and to acquire the ability to become responsible for his personal health, that of his family, and of his community.

(2) All persons employed by the school shall present to the governing authority of the school where employed, upon their initial employment and once each succeeding year thereafter, a certificate to the effect that they are free from communicable diseases. The certificate must be signed by a licensed physician and must be secured annually, not more than 90 calendar days prior to the opening of the yearly fall school term.

I. *Compulsory attendance, length of school year and day:*

(1) State Education Department or Tribal compulsory age and attendance requirements shall be adhered to.

(2) The school year shall be a minimum of 180 teaching days or not less than the State Education Department regulation.

(3) The minimum length of the school day shall not be less than the State Education Department regulation.

J. *Teaching load and class size:*

(1) The Contractor shall maintain a teaching load and class size consistent with the current education requirements of the State Department of Education.

K. *Curriculum:*

(1) The Contractor shall provide a curriculum which is designed to attain the goals and objectives of the school program, and shall meet the current State Department of Education standards. The Contractor shall strive for State Education accreditation.

(2) If special circumstances warrant a deviation from the above standards, the Contractor may make such deviation provided the Contracting Officer approves of the change.

L. *School site, building, and equipment:*

(1) All school buildings shall meet the minimum standards for their purpose. First consideration shall be given to the health and safety of pupils and employed personnel. Due consideration shall be given to space requirements and comfortable seating for all pupils in each classroom.

(2) The Area Office and the Tribe/School Board shall work cooperatively for long-range school construction planning and funding methods of Federally-owned facilities.

(3) Buildings and facilities shall meet minimum Bureau or State Education Department requirements for their particular use.

M. *Contract term—Termination—Renewal—Modification:*

(1) This Contract shall be for the period beginning July 1 and ending June 30 of the following year, subject to renewal and termination of the Contract as provided in the negotiations.

(2) Either party may terminate the contract by first giving the other party sixty (60) days written notice of its intention to do so.

(*a*) In the event of such cancellation, or in the case of retrocession, any unobligated funds previously advanced to the Contractor by the Bureau will be returned within a reasonable period of time, but no later than June 1 of the current school year.

(3) The Contract may be modified at any time in writing by mutual consent of both parties.

N. *Consultative services:*

(1) Upon reasonable request, the Bureau shall provide any available planning, training, consultative, and technical expertise in educational services, training, research, development, and evaluation areas which enables the Bureau to carry out legal obligations and trust responsibilities for the education of Indian and Alaska Native children and youth.

O. *Access to facilities and acceptance:*

(1) The Contract Officer and the Contracting Officer's Representative shall have access to the school facilities at any reasonable time for the purpose of observing, monitoring, and evaluating the educational program.

(2) Acceptance of all the work required to be done by the Contractor under this contract, including but not limited to the approval of any and all reports, shall be by the Bureau Contracting Officer.

P. *Waivers and exceptions:*

(1) The Bureau may waive or modify, prior to the execution of a contract, any of these provisions if it seems advisable because of factors which might improve the total school program.

(2) Any other minimum educational provisions not included herein shall not be less than the highest maintained by the applicable State Department of Education.

### ILLUSTRATION I—INTRODUCTION

Report 20–01 is to be used by the Tribe or School Board when submitting a proposal for contractual operation of a school under the Indian Involvement Program.

Applicants should familiarize themselves with the contents of 20 BIAM, the reference document [illegible] Indian Education Programs, before submitting a proposal.

The timing of the [illegible] of a contract for operation of a school shall be as follows. First, Tribal council resolution and a letter of intent—expressing an interest in the operation of a school under contract—must be submitted by January 1 prior to the intended fiscal year of operation. Second, Report 20–01 must be submitted on or before March 1 prior to the intended fiscal year of operation.

Six (6) legible typewritten copies of Report 20–01, fully completed including required attachments, should be submitted. The tribal resolution and letter of intent and Report 20–01, signed by the authorized official, shall be submitted to the Agency Superintendent who will forward them to the Area or Central Office, wherever the contract is to be negotiated. Technical assistance in developing and preparing the Form may be requested from the Bureau whenever needed, either before the submission of any documents or after they have been submitted. To save time, requests for assistance should be made directly to the Agency Superintendent and Area Director. Assistance may also be coordinated by the Central Office Education Programs.

FORM 5-2001

## SCHOOL PROGRAM OPERATIONS PROPOSAL

Date of Submission ______

### PART I - SUMMARY COVER SHEET

A. Applicant Identification
Legal Name:

B. Address (Include ZIP Code):

C. Area Code - Telephone Number:

D. Congressional District:

E. Contract School Location:
Name of School, Center, etc.

F. Address (Include ZIP Code):

G. Area Code - Telephone Number:

H. Congressional District:

I. Status of Proposal:
☐ New ☐ Continuing
Start Date 7 / 1 / __ End Date 6 /30 / __

J. Typed Name and Title of Authorized Official:

K. Signature of Authorized Official:

FORM 5-2002

## PART II - CUMULATIVE ENROLLMENT

| GRADE | CURRENT FISCAL YEAR | FUTURE FISCAL YEAR |
|---|---|---|
| Kindergarten* | | |
| Grade 1 | | |
| Grade 2 | | |
| Grade 3 | | |
| Grade 4 | | |
| Grade 5 | | |
| Grade 6 | | |
| Grade 7 | | |
| Grade 8 | | |
| Special Elementary | | |
| Grade 9 | | |
| Grade 10 | | |
| Grade 11 | | |
| Grade 12 | | |
| Special Secondary | | |
| GRAND TOTAL | | |

* Half-day sessions by pupils in kindergarten are counted as full-day enrollment.

Release 20-2, 4/24/72

### *Part III—School Staff*

Count only full- and part-time staff members. For each position assignment category, determine the full-time equivalency (FTE) of each staff member as follows:

1. Each person assigned full-time to a position category should be counted as 1.0.

2. A person employed full-time, but assigned to more than one position category, should be counted part-time in each category, e.g., a person who spends 3 days per week as a counselor and 2 days as a classroom teacher should be counted 0.6 as counseling, and 0.4 as teaching.

3. For part-time employees, base FTE on an 8-hour day for paraprofessionals and a normal working day for professionals. Enter the sum of the equivalencies within an assignment category in the appropriate space on the form.

Below are definitions for use in completing the material required under the "Staff" tables below:

*A. Instructional staff—professional*

1. Staff member assigned as administrative head of school.

2. Staff member assigned as educational head of school.

3. Staff members assigned to assist the head of a school.

3a. Staff members performing leadership and expertness activities in a specialized field to improve the performance of teachers and other staff members.

4a, 4b. Self-explanatory.

4c, 4d. Teachers of grades higher than eight should not be reported as elementary and teachers of grades lower than seven should not be reported as secondary. Where a teacher is teaching at both the elementary and secondary levels, prorate the assignment between the levels in terms of FTE.

4e. Staff members assigned to special programs designed to assist students who are mentally, physically, emotionally, or socially handicapped.

5. Staff members assigned to teach specialized courses, e.g., cultural studies, traditions.

6. Staff members responsible for organizing and managing school libraries.

7. Staff members responsible for counseling pupils regarding their abilities and aptitudes, educational and occupational opportunities, personal and social adjustments.

8. Psychologists and psychometrists responsible for providing psychological services to pupils.

9. Staff members responsible for preparing, caring for, and making available aids which assist teaching and learning.

*B. Instructional staff—paraprofessional*

10. Staff members performing nonteaching activities which are not classified as professional educational, but who assist a teacher to perform professional educational teaching assignments.

11. Staff members working in the school library who perform paraprofessional activities, e.g., distributive functions for materials loan, assistance with organization and use of materials.

12. Secretaries and clerks assisting the professional staff reported in 1–9 above. Exclude any reported in 10–11.

*C. Noninstructional staff—professional*

13. Deputy, associate principals, school business officials, and other professional administrative staff employed by the school. Exclude any reported in 1–3.

14. Staff members who provide services in the field of physical and mental health, e.g., school nurses, speech clinicians, reading therapists.

15. School social workers, community workers or attendance officers.

16. Attorneys, engineers, and other professional noninstructional personnel employed by the school system not included above.

*D. Noninstructional staff—paraprofessional*

17. Staff members performing services for students in resident facilities.

18. Paraprofessional assistants to professional school health personnel, such as nurse's aides or first aid assistants.

19. Staff members performing housekeeping and servicing functions, such as janitors and maintenance personnel.

20. Staff members transporting pupils.

**21. Secretaries and clerks assisting the noninstructional professional staff.** Do not include those reported above.

**22. Staff members responsible for the planning, preparation, and serving of meals.**

**23. Paraprofessionals having an assignment not included in the above classifications.**

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20 BIAM 6

BUREAU OF INDIAN AFFAIRS MANUAL

INDIAN INVOLVEMENT PROGRAMS

Education Services Through Indian Tribes

FORM 5-2003

## SCHOOL STAFF

| | NUMBER AND FTE | | | |
|---|---|---|---|---|
| | Current FY | | Future FY | |
| | Number | FTE | Number | FTE |
| A. Instructional Staff - Professional. | | | | |
| 1. Superintendent | | | | |
| 2. Principal | | | | |
| 3. Assistant Principal(s) | | | | |
| a. Supervisors of Instr. | | | | |
| 4. Classroom Teachers | | | | |
| a. Prekindergarten | | | | |
| b. Kindergarten | | | | |
| c. Elementary | | | | |
| d. Secondary | | | | |
| e. Special Education | | | | |
| 5. Other Teachers | | | | |
| 6. Librarian | | | | |
| 7. Counselor Staff | | | | |
| 8. Psychology Staff | | | | |
| 9. Audio Visual Staff | | | | |
| B. Instructional Staff - Paraprofessional. | | | | |
| 10. Teacher Aides | | | | |
| 11. Library Aides | | | | |
| 12. Secretarial, Clerical, and Other | | | | |
| C. Noninstructional Staff - Professional. | | | | |
| 13. Administrative Staff | | | | |
| 14. Health Staff | | | | |
| 15. Social Workers | | | | |
| 16. Other | | | | |
| D. Noninstructional Staff - Paraprofessional. | | | | |
| 17. Dormitory Aides | | | | |
| 18. Health Aides | | | | |
| 19. Custodial Workers | | | | |
| 20. Bus Drivers | | | | |
| 21. Secretarial and Clerical | | | | |
| 22. Food Service Staff | | | | |
| 23. Other | | | | |

GRAND TOTAL ------

Release 20-2, 4/24/72

### *Part IV—Proposed School Plan*

In brief narrative form, provide information on the proposed educational program to be developed and implemented under contract status to the Bureau. Attach extra sheets if necessary. Refer to 20 BIAM, Section 6.10 and 6.12(B) for an explanation of the items indicated below.

A. Provide a statement of educational philosophy for the school program as developed by the community, its elected School Board, faculty, and student body. Discuss how the operation of the contract school program will provide unique or innovative services in meeting the learning needs of students.

B. Provide a statement of school program goals and objectives for the next school year as target activities under contract status. Identify problems and needs of the students.

C. Provide a statement of the methods, tools, strategies, and approaches to be used to work toward achieving the school program goals during the next school year under contract status and resolving the student problems and needs.

D. Provide a statement of evaluation criteria and procedures appropriate to the school services to be provided and consistent with the stated goals and objectives. Describe dissemination activities to be carried out in connection with the school program.

FORM 5-2004

## PART V - SCHOOL FINANCES REPORT

Budget information in this section will provide an itemization of the costs to operate the school program this current fiscal year (July 1–June 30) and estimated costs for the next year of proposed contract operation. Before completing this section, refer to 20 BIAM, Section 6.7(C).

| Purpose of Expenditure | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| I. ADMINISTRATION | | |
| A. Salaries for Administration | | |
| (1) Secretary to School Board | | |
| (2) Superintendent | | |
| (3) Admin. Asst. to Superintendent | | |
| (4) Secretaries and Clerks | | |
| B. Contracted Services | | |
| (1) Legal Services | | |
| (2) School Census | | |
| (3) Other | | |
| C. Other Expenses of Administration | | |
| (1) School Board Expenses | | |
| (a) Travel | | |
| (b) Supplies and Expenses | | |
| (c) School Elections | | |
| (d) Dues and Fees | | |
| (e) Training | | |

FORM 5-2004 Cont'd (Page 1)

| | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| (2) Superintendents Office Expenses | | |
| (a) Travel ------------------ | | |
| (b) Supplies and Expenses --- | | |
| (3) Other Expenses of Administration | | |
| (a) Postage ----------------- | | |
| TOTAL EXPENDITURES - ADMINISTRATION --- | | |
| II. INSTRUCTION | | |
| A. Salaries for Instruction | | |
| (1) Salary of Principal ---------- | | |
| (2) Salaries of Coordinators and Supervisors --------------- | | |
| (3) Salaries of Teachers | | |
| (a) High School ------------ | | |
| (b) Jr. High School --------- | | |
| (c) Elementary ------------- | | |
| (d) Kindergarten ----------- | | |
| (e) Prekindergarten --------- | | |
| (f) Substitute ------------- | | |
| (g) Special Education ------- | | |
| (h) Summer Program ---------- | | |
| (i) Other Instr. Staff ------ | | |
| (4) Salaries of Secretaries and Clerks -------------------- | | |
| TOTAL - SALARIES FOR INSTR. STAFF | | |

Release 20-2, 4/24/72

FORM 5-2004 Cont'd (Page 2)

| | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| (5) Textbooks | | |
| (6) Library and Audio-Visual Material | | |
| (a) Library Books | | |
| (b) Periodicals and Newspapers | | |
| (c) Other Expenses | | |
| (d) Audio-Visual | | |
| (7) Teaching Supplies | | |
| (8) Other Instr. Expenses | | |
| (a) Principal Office Supplies | | |
| (b) Travel | | |
| (c) Inservice Education | | |
| (d) School Exhibits | | |
| (e) Equipment Rental | | |
| (f) Graduation Expenses | | |
| (g) Awards | | |
| (h) Other Instr. Supplies | | |
| TOTAL EXPENDITURES - INSTRUCTION | | |
| III. ATTENDANCE SERVICES | | |
| A. Salaries | | |
| B. Other Expenses | | |
| TOTAL EXPENDITURES - ATTENDANCE SERVICES | | |

**FORM 5-2004 Cont'd (Page 3)**

| | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| IV. HEALTH SERVICES | | |
| A. Salaries | | |
| B. Supplies | | |
| C. Other Expenses | | |
| (1) Examinations | | |
| (2) Contracted Services | | |
| TOTAL EXPENDITURES - HEALTH SERVICES | | |
| V. PUPIL TRANSPORTATION | | |
| A. Salaries of All Transportation Staff Full-Time or Prorated | | |
| B. Contracted Services | | |
| C. Replacement of Vehicles | | |
| D. Pupil Transportation Insurance | | |
| E. Other Expenses | | |
| Operation | | |
| (1) Gasoline | | |
| (2) Oil, Grease, Gear Lubricants | | |
| (3) Tires and Tubes | | |
| Maintenance | | |
| (4) Of Vehicles by Private Garages | | |
| (5) Rent for Pupil Transportation | | |
| (6) Supplies and Expenses for Garage Operation | | |

FORM 5-2004 Cont'd (Page 4)

| | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| (7) Garage and Garage Equipment Repairs | | |
| (8) Other | | |
| F. GSA Rental | | |
| TOTAL EXPENDITURES - PUPIL TRANSPORTATION | | |
| VI. OPERATION OF PLANT | | |
| A. Salaries | | |
| B. Contracted Services | | |
| C. Utilities Operation | | |
| (1) Fuel | | |
| (2) Electricity | | |
| (3) Water and Sanitation | | |
| (4) Telephone and Telegraph | | |
| (5) Other Utilities | | |
| D. Custodial Supplies | | |
| E. Other Expenses and Supplies | | |
| TOTAL EXPENDITURES - OPERATION OF PLANT | | |
| VII. MAINTENANCE OF PLANT | | |
| A. Salaries | | |
| (1) For Grounds Upkeep | | |
| (2) For Building Repairs | | |
| (3) For Equipment Repair | | |

FORM 5-2004 Con'd (Page 5)

| | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| B. Contracted Services --------------- | | |
| C. Replacement of Equipment ---------- | | |
| (1) Of Instruction Equipment ----- | | |
| (2) Of Non-Instruction Equipment - | | |
| D. Other Expenses | | |
| (1) For Grounds Maintenance ------ | | |
| (2) For Building Repairs --------- | | |
| TOTAL EXPENSITURES - MAINTENANCE OF PLANT | | |
| VIII. FIXED CHARGES | | |
| A. Insurance ------------------------ | | |
| B. Rental of Land/Building ---------- | | |
| C. Workmen's Compensation. ---------- | | |
| D. Employee Fringe Benefits --------- | | |
| E. Other Fixed Charges -------------- | | |
| TOTAL EXPENDITURES - FIXED CHARGES ---- | | |
| IX. FOOD SERVICES | | |
| A. Salaries ------------------------- | | |
| B. Other Expenses ------------------- | | |
| TOTAL EXPENDITURES - FOOD SERVICES ---- | | |

FORM 5-2004 Cont'd (Page 6)

| | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| X. STUDENT BODY ACTIVITIES | | |
| A. Salaries | | |
| B. Transportation for Activities | | |
| C. Other Expenses | | |
| TOTAL EXPENDITURES - STUDENT BODY ACTIVITIES | | |
| XI. ADULT EDUCATION | | |
| A. Salaries of Teachers | | |
| B. Other Expenses | | |
| TOTAL EXPENDITURES - ADULT EDUCATION | | |
| XII. CAPITAL OUTLAY | | |
| A. Sites | | |
| (1) Professional Services | | |
| (2) Site Additions | | |
| (3) Site Improvements | | |
| B. Buildings | | |
| (1) Professional Services | | |
| (2) New Building and Building Additions | | |
| (3) Remodeling | | |

FORM 5-2004 Cont'd (Page 7)

| | FISCAL YEAR | |
|---|---|---|
| | CURRENT | FUTURE |
| C. Equipment | | |
| (1) For Administration ----------- | | |
| (2) For Instruction -------------- | | |
| (3) For Plant Operation ---------- | | |
| (4) For Plant Maintenance -------- | | |
| (5) Other Equipment -------------- | | |
| D. Equipment for Pupil Transportation | | |
| (1) Initial and Additional Vehicles | | |
| (2) Repair and Service Equipment | | |
| E. Other Expenses ------------------- | | |
| TOTAL EXPENDITURES - CAPITAL OUTLAY --- | | |
| GRAND TOTAL (Sum of Total Expenditures) ---------------------- | | |

### *Part VI—Attachments*

Provide copies of the following documents:

A. [1] A copy of the Tribal resolution designating a legally established School Board with authorities to negotiate a contract for school programs operation, if that is intended, and outlining its functions, duties, and responsibilities. (See 20 BIAM, Sec. 6.10(A))

B. A copy of the School Board membership listing names, their position or rank, tenure of office, home addresses, and telephone numbers. Include also the date of the School Board elections for this current Board. (See 20 BIAM Sec. 6.10A(2))

C. [1] A copy of the Tribal Council Indian Reorganization Act (IRA) Charter; and, incorporation papers of the School Board under IRA Charter of the Tribe or under State charter. (See 20 BIAM Sec. 6.10A(3))

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U.S. Department of the Interior,
Office of the Secretary,
*Washington, D.C., May 3, 1973.*

Memorandum
To: Area Directors,
Director of Southeastern Agencies,
Bureau of Indian Affairs,
Attention: Personnel Officers.
From: Deputy Assistant Secretary of the Interior.
Subject: Reassignment of Education Personnel.

The Northern Cheyenne School Board plans to complete its assumption of the education program at the Busby School (Billings Area) by the beginning of the school term next fall. As a result, the Bureau will honor its standing pledge to offer continued employment to any employees affected by tribal assumption of Federal functions. A maximum of 11 professional educators may need to be reassigned from Busby to other Bureau locations, preferably by the end of this fiscal year.

This Office recently authorized the Billings Area Office to negotiate with other Areas on the reassignment of these personnel; applications have already been referred to some Areas, according to individuals' stated preferences. In addition, the Teacher Recruitment Unit has been directed to handle eight of the teachers (GS-7 and GS-9) on a priority basis, referring them for appropriate Area openings ahead of any candidates from the Civil Service register.

As an exception to the current freeze restrictions, teachers may be reassigned. Therefore, Areas are urged to fill current vacancies by selecting personnel from the Busby education staff listed below. Both the Billings Area Personnel Office and the Teacher Recruitment Unit can provide information on the qualifications and experience of the first eight people; Billings has that data on the three persons in grades GS-11 and GS-13.

| | |
|---|---|
| 1 Teacher (commercial) | GS-7 |
| 3 Teachers (elementary) | GS-9 |
| 1 Teacher (music) | GS-9 |
| 1 Teacher (science) | GS-9 |
| 1 Teacher (vocational subjects) | GS-9 |
| 1 Teacher (mathematics) | GS-9 |
| 1 Guidance supervisor | GS-11 |
| 1 Teacher supervisor (secondary) | GS-11 |
| 1 Education program administrator | GS-13 |

Since an offer of reassignment must be made to each of these people, we believe it is desirable for both the individuals and the Areas that reassignments be arranged in a voluntary manner as soon as possible, rather than by direction from this Office later in the year. Your cooperation in this effort will be appreciated.

By the beginning of the 1973 school year, there will be several other schools and dormitories which will be: (1) taken over by the tribes; (2) beginning gradual phaseouts by diminishing student enrollments; or (3) closed altogether. This will necessitate reassignment of many highly qualified teachers and guidance counselors, and our efforts must be concentrated on reassigning as many of these employees as possible. The Recruitment Unit will be the coordinating office for the reassignment of teachers and guidance counselors, GS-5/7/9, who will be affected by these actions.

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[1] To be provided only once with the initial proposal submission.

Each Area having schools or dormitories which will be reduced in staff due to one of the above reasons should send resumes or applications to the Recruitment Unit for employees they will not be able to reassign within their own Areas. Priority consideration will be given to these employees in filling vacancies. Location preferences will be taken into consideration; however, employees should be aware that it may not be possible to honor all requests. With the pending placement of approximately 250 teachers and guidance counselors, in addition to those from Busby, it is imperative that the appointing offices notify the Recruitment Unit of their vacancies, or anticipated vacancies, for the 1973–74 school year. This information must be in the Recruitment Unit not later than May 10 so that reassignments may be worked out. Appointments from the register will not be made until teachers whose jobs are being affected have been placed.

Personnel Offices should work directly with their assigned recruitment coordinators for notification of vacancies, as well as for assistance in reassigning employees.

W. H. HOGANS.

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## OFFICE OF INDIAN EDUCATION PROGRAMS

*April 17, 1974.*

### *Secretarial objectives*

The Commissioner has submitted to the Under Secretary two objectives for Indian education programs. The first of these is that by the end of Fiscal Year 1975 at least one-fourth (50) of the Bureau schools will operate under the management system chosen by those served by the school.

The second is that by June 30, 1975, plans and procedures will be developed and implemented which will provide for maximizing the effectiveness and improving the accountability of Bureau education programs to Indian people and Congress.

Approaches to the achievement of these objectives and some constraints involved are outlined in the objective statement.

### *Revision of JOM regulations*

Comments on the proposed regulations published in the Federal Register were received from a large number of individuals and organizations. A committee appointed by the Commissioner is reviewing all comments and will prepare a new draft of the regulations, incorporating appropriate recommendations. This new draft will be circulated for further review and comments. Many of the comments pertained to eligibility requirements and Indian participation in the control of the funds.

### *Student rights and responsibilities*

The proposal of a new part for the Code of Federal Regulations (25 CFR 35) has been forwarded to the Commissioner for his consideration. This proposed new part provides guidelines on student rights and responsibilities for Bureau schools.

These guidelines have been developed on the theme that the Central Office should offer general guidance and that each field location should have responsibility for developing detailed guidelines and a corresponding program.

It is hoped that these regulations will be published in the Federal Register for final review and comment in the near future. A Manual Release is now in the review process and a Curriculum Bulletin to support the program concept is now being developed.

### *Possible future use of intermountain school facility*

At the request of various Indian organizations and tribes, the Commissioner has appointed an all-Indian group to study the feasibility and desirability of using the Intermountain School facility for an inter-tribal school of some sort and other possible uses beneficial to Indian people. This group has its first meeting in Washington, D.C., April 15–16. Their next meeting will be at Intermountain the last week of this month.

### *Joint study with USOE*

At the request of the Appropriations Subcommittees, the Bureau and USOE (DHEW) are completing plans for a joint study of Federal funding programs for public schools serving Indian students. The major program areas concerned are JOM, Title I, P.L. 874, and Title IV of the Indian Education Act. George Scott is working with USOE in this study which will include schools serving both VIA-eligible and non-eligible Indian students. The purpose of the study is to determine whether use of these funds is being coordinated properly to best serve the needs of Indian students. It is expected that a contract will be let and pretesting of plan elements begun within the next ten days. The study will include about 15–20 school districts in eight states.

## OBJECTIVE STATEMENT—PRESIDENTIAL/SECRETARIAL OBJECTIVES

APRIL 2, 1974

### *Objective*

By the end of fiscal year 1975 at least one-fourth (50) of the Bureau schools will operate under the management system chosen by those served by the school.

### *Approach*

The people served by all schools operated by the Bureau of Indian Affairs will review and determine the management system for that school, including the various options and alternatives available to upgrade, change and innovate education programs for Indian children, through a series of meetings of tribal and community representatives and Bureau of Indian Affairs area and agency officials. By May 30, 1974, the Office of Indian Education Programs will develop a training package which will be designed to help a school board, staff, students, parents, tribal leaders and others concerned to assess their school's programs and needs and to understand the management options which are available for operating that school; ie: Continued Bureau operation, public school, contract, etc. During June 1974, Central Office staff will explain the objective and the use of the training materials to each Area Office in which schools are operated. In accordance with schedules to be developed by Area Offices by June 15, 1974, Area Offices will make a total of 100 presentations during FY 1975 to tribal groups, and through the tribe, local communities and school boards as a means of preparing one-fourth (50) of the Bureau schools to undertake a comprehensive needs assessment leading to greater participation in program planning. The tribes and/or school boards of each of these 50 schools will be asked to prepare a resolution on their choice of a management system for the continued operation of the school which is consistent with the local and National interests and regulations.

### *Constraints*

In order to accomplish an objective of this magnitude, a high priority will have to be developed for staff at all levels. Other developmental activities will have to assume a lower priority.

APRIL 3, 1974

### *Objective*

By June 30, 1975, plans and procedures will be developed and implemented which will provide for maximizing the effectiveness and improving the accountability of Bureau education programs to Indian people and Congress.

### *Approach*

Four major elements will comprise the technique for reaching the objective:

1. *Goals development.*—The educational goals of the BIA will be reviewed by Indian people and Bureau field staff. *Recommendations will be incorporated into a new set of goals to be published in the Federal Register and made a part of the BIA Field Manual. A curriculum bulletin will be prepared and disseminated to Bureau educational personnel and Indian people as a guideline and stimulus for goal setting and program analysis at all levels.*

2. *Evaluation.*—Criteria for the measurement of progress toward the goals *will be formulated*, which gives attention to problems extant such as pupils dropping out of school. An educational information system *will be developed* which will yield uniform and accurate data related to the criteria. An annual evaluation report *will be prepared* based on this data, progress reports from the field units and central office program reviews and monitoring.

3. *Curriculum development.*—A series of curriculum bulletins *will be prepared by the central office and* disseminated to the field which will provide (1) suggestions for program improvement in several curriculum areas and (2) standards for program operation.

4. *Fund equity.*—A system of allocating funds to Bureau operated schools *will be developed and implemented* which will provide that students in comparable educational programs will have comparable financial resources invested in their education no matter where they may live.

### *Constraints*

1. *Goals development.*—None anticipated.

2. *Evaluation.*—The capability of the Bureau's computer unit will have to be assessed. Additional funds and contract options may be required to implement the educational information system. Resistance may develop over the confidentiality of some data.

3. *Curriculum development.*—Limited central office staff may delay preparation of some curriculum bulletins.

4. *Fund equity.*—Coordination with Bureau's band analysis fund allocating process will have to be achieved. Resistance of units currently receiving preferential funding will have to be dealt with.

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## DEPARTMENTAL MANUAL TRANSMITTAL SHEET

### ORGANIZATION—BUREAU OF INDIAN AFFAIRS

*May 20, 1974.*

This release publishes the organization of the Bureau of Indian Affairs established by Secretarial Order 2954 dated May 11, 1973, in the Departmental Manual. It also describes the subordinate organizational units within each of the directorships established by the Secretarial Order. Secretarial Order 2954 was designed to transfer day-to-day operational activities of the Bureau of Indian Affairs to the field, reduce nonessential Central Office support staff, and increase the effectiveness of the delivery system for service to Indians. Adjustments and refinements have been incorporated to respond to the comments and views of Indian leaders and other interested parties where such changes were considered to be an improvement over the original plan.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

### *Chapter 2—Organization Structure*

.1 *Overall Organization.*—The overall organization of the Bureau of Indian Affairs consists of headquarters in Washington, D.C., Area offices, and subordinate field installations located throughout the country. The Commission of Indian Affairs is the chief executive of the Bureau. Each Area office is under the supervision of an Area Director who also supervises several field installations.

.2 *Headquarters Organization.*—The Bureau headquarters consists of the Office of the Commissioner, which includes four component organizational units as described below; four mission-oriented program offices as described in Chapters 3 through 6; and one administrative support office as described in Chapter 7. Day-to-day operations are carried on by the Bureau's Area and other field offices.

The functions of the headquarters organizational components are to assist the Commissioner in the exercise of management control over the operation of the Bureau. Specifically, the Central Office components: (1) coordinate and assist in the development of Bureauwide policies, programs, budgets and justifications; (2) develop Bureauwide legislative programs and reports; (3) carry on liaison with other Federal agencies and national Indian organizations regarding Indian programs and needs; (4) monitor and evaluate the performance of the field establishment; (5) participate in periodic and special management and program reviews of field operations; and (6) advise the Commissioner on Bureau programs, policy matters and regulations, and on specific items or cases.

.3 *Office of the Commissioner.—The Commissioner of Indian Affairs* establishes policies, directs total operations, and represents the Bureau in dealings with Congress, the Department, other Federal agencies, the Indian people, and the public. He is assisted in these functions, particularly in the internal management of the Bureau, by a *Deputy Commissioner*; and by Assistants to the Commissioner who perform a variety of tasks which require focus within the immediate Office of the Commissioner. This office controls the flow of sensitive and priority correspondence throughout the Central Office.

(A) The *Congressional and Legislative Affairs Staff* reviews and coordinates all legislative development and congressional relations activities of the Bureau. It provides legislative research and staff assistance in planning, developing, and drafting legislation. It reviews and analyzes the legislative needs of the Bureau and tribes, and prepares and reports on legislative proposals affecting Indians and Indian tribes as well as Bureau of operations.

B. The *Intergovernmental Relations Staff* serves as a coordination point for liaison with other Federal agencies at the national and regional council level and the national headquarters of organizations of state and local government officials in order to promote active consideration of the needs of Indian people in the administration of Federal programs. It identifies and maintains information on Federal financial and technical resources available to Indian people. It serves as the focal point in the Bureau for international Indian affairs. It also serves as a focal point for developing information for the Indian people on the availability of assistance programs, the eligibility requirements and the benefits to be received from the programs.

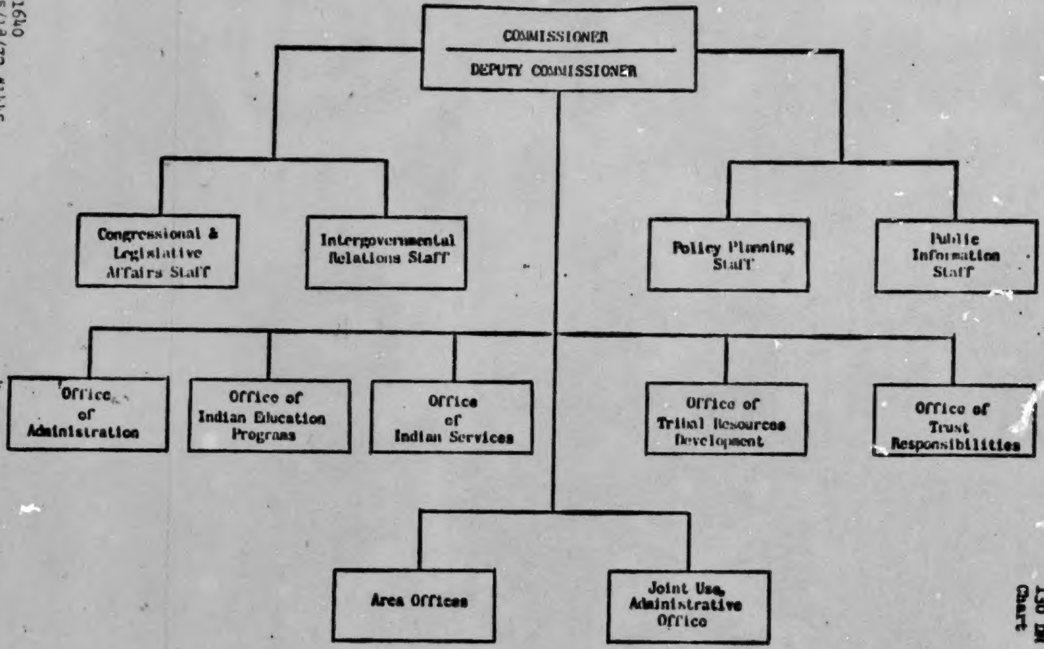
C. The *Policy Planning Staff* at the direction of the Commissioner, develops and defines the Bureau's mission, policies and objectives including developing long range plans and objectives in coordination with Bureau activities such as legislation, budget, an devaluation processes; identifying strategic problems requiring resolution or study; developing Bureauwide forecasts and innovative planning for future Bureau requirements and needs; performing special studies and evaluations to insure that the Bureau's mission, policies and objectives reflect the future needs of the Indian people and the Bureau.

D. The *Public Information Staff* maintains liaison with the media, the public, and other Federal and State agencies. It prepares speeches, and articles for key officials in the Bureau, news releases on major developments, general publications, and audio visual materials in support of the Bureau's mission; and special materials as required to provide closer and more timely communication with Indian groups. It prepares special material to be used as correspondence aids in answering repetitive public inquiries on current and historic issues. The Public Information Staff is headed by a Chief of Public Information who reports directly to the Commissioner of Indian Affairs. The staff serves as information consultants to other top officials of the Bureau. The Office maintains a functional relationship with the Office of Communications, Department of the Interior and with all public information related activities in the Bureau.

130 DM 2
Chart

## ORGANIZATION

## BUREAU OF INDIAN AFFAIRS


COMMISSIONER
DEPUTY COMMISSIONER
Congressional & Legislative Affairs Staff
Intergovernmental Relations Staff
Policy Planning Staff
Public Information Staff
Office of Administration
Office of Indian Education Programs
Office of Indian Services
Office of Tribal Resources Development
Office of Trust Responsibilities
Area Offices
Joint Use, Administrative Office

5/20/74 #1640
Replaces 5/18/72 #1445

### *Chapter 3—Indian Services*

.1 The *Office of Indian Services* is responsible for providing staff support to the Commissioner in the development and management of Bureau programs designed to promote the welfare and development of individual Indians and Indian communities, assist tribes in developing local governmental services for Indian communities and assist tribes in developing their capabilities for self-government. These programs include Social Services, Housing, Law Enforcement, Tribal Government, and Tribal Planning.

The Office of Indian Services plans, develops, monitors, an devaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation.

A. The *Division of Housing Services* provides staff assistance to the Director regarding Bureau programs to provide and improve housing for Indians in Indian areas. The Division also maintains liaison with the Central Office of the Department of Housing and Urban Development on housing and other HUD programs to achieve the greatest possible potential benefits to Indians and their communities. In addition, the Division maintains liaison with the central office of the Indian Health Service to assure the coordination of the sanitation facilities construction program with the housing production and improvement programs in Indian areas.

B. The *Division of Law Enforcement Services* provides staff assistance to the Director regarding Bureau programs designed to provide law enforcement services. This includes programs related to law enforcement, the provision for training of personnel in police work, enforcement of trading regulations, enforcement of hunting and fishing regulations, and the coordination of such programs with the central offices of other agencies.

C. The *Division of Social Services* provides staff assistance to the Director regarding Bureau programs designed to provide Social Services to assist Indians and Indian communities in coping with social problems and to better utilize and develop community resources. The programs include financial assistance for needy Indians living on reservations; arranging foster care for dependent, neglected and handicapped Indian children; referral of Indians to local and State agencies for assistance where appropriate; prevention services in both adult and juvenile crime; both individual and family counseling services; community organizational services to improve the lives of Indian people; and assistance to tribes in the development of tribal social services programs and tribal work experience programs for employable recipients of assistance.

D. The *Division of Tribal Government Services* provides staff assistance to the Director regarding Bureau programs relating to tribal special services, tribal management services, and tribal enrollment services. This involves providing advice and assistance in areas of tribal judicial systems, tribal extension services, tribal government activities and procedures, tribal and judgment rolls, and enrollment appeals requiring action by the Commissioner or the Secretary of the Interior.

E. The *Division of Tribal Planning Services* provides staff assistance to the Director in providing guidelines to generate inherent tribal long-range and program planning capability. It provides staff leadership in the development, programming and funding of comprehensive plans reflecting the socio-economic and other needs as stated by individual tribal communities. It provides technical direction through the Director of Indian Services to field personnel who provide direct planning services to Indian tribes. Promotes consideration of youth and aged needs in comprehensive tribal plans.

### *Chapter 4—Tribal Resources Development*

1. The *Office of Tribal Resources Development* is responsible for providing staff support to the Commissioner in the development and management of Bureau programs to provide technical and financial assistance to enhance the economic development of Indian reservations and their people. The Office includes programs designed to assist Indian tribal organizations and individuals in (1) business enterprise development, with strong emphasis on Indian ownership and entrepreneurship; (2) securing credit and financing from conventional and govern-

mental sources to finance all sorts of Indian economic self-development, including loans for resources and business development, housing, public utility facilities, education, and other purposes; (3) qualifying for, finding, and occupying jobs both on and off reservation, consistent with the needs, capabilities, and aspirations of Indians; and (4) providing management and technical services associated with roads construction and maintenance programs.

The Office of Tribal Resources Development plans, develops, monitors, and evaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation.

A. The *Division of Indian Business Enterprise*, provides staff assistance to the Director regarding Bureau activities designed to assist the Indians in business enterprise development on Indian reservations. This is encouraged and assisted through various programs of technical and financial aid including but not limited to: (1) assistance in the development of specific commercial and industrial enterprises with emphasis on Indian ownership, entrepreneurship, and employment; (2) specialized assistance to identify, evaluate and publicize Indian enterprise development opportunities and Indian commercial and industrial resources potentials; (3) professional guidance in business enterprise development, planning and management counseling; (4) inducement of manufacturers and businessmen to locate on or near reservation areas; (5) assistance in development of resource oriented agricultural, mineral and other facilities; (6) economic research and technical assistance such as market analyses, feasibility determinations, short and long-range business development plans, and reservation resources inventories of natural, human and capital assets.

B. The *Division of Financial Assistance* provides staff assistance to the Director regarding specific programs designed to aid Indians in obtaining adequate capital for development of Indian resources, and to provide credit and financing services to Tribal organizations and individual members. This includes services to obtain funds from conventional and governmental sources to finance all types of Indian economic self-development, including loans for housing, education, and Indian governmental purposes, and in the investment and use of their own moneys for the same purposes. The programs include incentive provisions; financial counseling and analysis; and organizational, accounting, and management services. Also, the Division administers Revolving Loan Fund programs for the Bureau and assists in the establishment, supervision and financing of lending programs for Indian organizations. The Division includes a credit examining staff located in Denver, Colorado.

C. The *Division of Job Placement and Training* provides staff assistance to the Director regarding Bureau programs leading up to the development of job opportunities, on the job training, and other services needed to enable Indian individuals seeking work to secure and retain suitable employment. The programs involve a variety of activities related to direct employment services on and off reservation, including administrative management contracts with tribal governments, internship programs with private industry and governmental bodies, specialized training with federal and state agencies, and professional guidance to Indian tribes in assisting the development of their manpower potential. This would include administering and coordinating Indian Action Team contracts. The Division acts as liaison with other federal agencies conducting activities that have direct bearing on Indian manpower development resources.

D. The *Division of Transportation* provides staff assistance to the Director regarding Bureau programs for analysis, design, construction, and maintenance of roads, bridges, airfields, and other transportation facilities with the ultimate objective of enhancing reservation economies and services to Indian and Alaska Native people. The division includes a technical support staff in Albuquerque, New Mexico, which provides the Area and Agency Offices with computer operated design, inventory equipment, and project cost management services.

### *Chapter 5—Trust Responsibilities*

1. The *Office of Trust Responsibilities* is responsible for providing staff support to the Commissioner in the development and management of programs relative to the Bureau's trust and legal responsibilities. This includes (1) the protection of the rights of Indians in their trust property and those rights affecting trust property that are afforded by tribal sovereignty; (2) the exercise of the authori-

ties vested in the Secretary of the Interior by various laws concerning Indian trust property and for providing to Indians the services necessary for them to make decisions required of them in the application of these various laws; and (3) administration of those programs which are provided to facilitate the trust.

The functions regarding the protection of the rights as cited in (1) above are performed in the Office of the Director. This encompasses (a) all matter involving rights which include water rights, land titles, boundary disputes, trespass, hunting and fishing rights, contractual rights, the rights afforded by tribal sovereignty which include tax immunity or exemption, and the right to regulate hunting and fishing, zoning and other land use; (b) liaison between field offices and the Department on specific cases to bring about an administrative or judicial solution; (c) provision of technical expertise in preparation of legislation and legislative reports; and (d) a Westwide Water Study unit located in Denver, Colorado.

The Office of Trust Responsibilities plans, develops, monitors, and evaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation.

A. The *Division of Trust Facilitation* provides staff assistance and advice to the Director regarding Bureau programs concerning environmental quality, irrigation operation and maintenance, irrigation construction, and soil and moisture conservation.

B. The *Division of Trust Services* provides staff assistance and advice to the Director regarding the Bureau's real estate, forestry, range, and Indian trust fund programs. Provides staff work, assistance and advice pertaining to the exercise of the authorities vested in the Secretary of the Interior by various laws concerning Indian trust property and for providing to the Indians the services necessary for them to make decisions required for them in the application of these various laws.

### *Chapter 6—Indian Education Programs*

.1 The *Office of Indian Education Programs* is responsible for providing staff support to the Commissioner in the development and management of Bureau programs which will provide educational opportunities to Indian youth and adults in either Bureau, public or private schools. The office provides technical and supportive assistance to field offices responsible for educational programs.

The Office of Indian Education Programs plans, develops, monitors, and evaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation.

A. The *Division of Professional Relations* provides staff assistance to the Director in developing and carrying out liaison with Federal and other agencies regarding Indian education programs and needs. It provides a review and analysis of new and proposed legislation and/or reports prepared by the Bureau's Congressional and Legislative Affairs Staff and makes recommendations concerning legislative needs.

B. The *Division of Internal Services* provides staff assistance to the Director by providing education input into budget justifications, reviews of fiscal accountability, and development of an educational information system. It maintains liaison with the Office of Administration on all budget, procurement, procedural and personnel matters affecting the Director's office. The Division coordinates the preparation and dissemination of correspondence within the Director's office. It develops education budget policies and standards.

.2 The *Indian Education Resources Center* located in Albuquerque, New Mexico, provides coordination of supervision for five Divisions which are: (1) Continuing Education; (2) Evaluation, Research and Development; (3) Educational Assistance; and (4) School Facilities and (5) Media Services. This office provides assistance to the Director and is under the supervision of an Administrator.

A. The *Division of Continuing Education* provides staff assistance to the Director regarding career development programs including the adult education, scholarship and adult vocational training activities for the Bureau. The Division coordinates these programs and provides interagency liaison between Federal and other agencies that have post secondary programs. It develops general policies and standards for its assigned programs.

B. The *Division of Evaluation, Research and Development* provides staff assistance to the Director by coordinating the evaluation and review of educational programs which will provide information to affect long-range or immediate improvement in programs. It reviews new and innovative educational and home living programs for Bureau schools. The Division provides consultant services to Area Offices and interagency programs and maintains a continuing study on developments of media and materials used in educational programs. It develops general educational policies and standards.

C. The *Division of Educational Assistance* provides staff assistance to the Director regarding the Johnson O'Malley, Elementary and Secondary Education Act titles and other flow-through funding programs. The Division coordinates these programs for the Director. It assists in the development of plans for specific services to Indian students in public or contract schools. It provides for the development, administration and monitoring of the various title programs for the Elementary and Secondary Education Act and other programs administered by the Office of Education. It develops general policies and standards for its assigned programs.

D. The *Division of School Facilities* provides staff assistance to the Director, Area Offices, and school administrators in developing educational specifications for school construction. It assists in the development of long range plans for construction of school buildings and criteria for the management of school space, procurement of school equipment and in the selection of school sites, and training for school staff members in the usage of new equipment. It develops general policies and standards for its assigned programs.

E. The *Division of Educational Audio-Visual Services located* in Brigham City, Utah, provides Bureau educational programs with educational films for classroom teaching, vocational instruction and teacher training. It plans and produces visual materials for use in the Bureau's educational and other programs including films, slides, sound and video-tapes, charts, graphs, photographs, booklets, pamphlets and posters. It provides film library and media production training for Indian students. The Division is responsible for coordinating noneducational films and materials with the Public Information Staff and complying with applicable regulations and Departmental manual requirements (471 DM and 472 DM).

### *Chapter 7—Administration*

.1 The *Office of Administration* is responsible for providing staff support to the Commissioner in the development and managementof Bureau programs designed to provide support services to all parts of the Bureau. These programs include the functions of audit, automatic data processing, budget, equal employment, facilities engineering, finance and accounting, management research and evaluation, personnel management, procurement, property management, contracting, program development and implementation, and safety management. The Office is also responsible for providing support and housekeeping services for the Central Office, Eastern Area, and the Indian Arts and Crafts Board. It also administers the Bureau's systems for centralized payroll, automated personnel, accounting, and automatic data processing through its Administrative Services Center located in Albuquerque, New Mexico.

A. The *Audit Staff* provides audit services to tribes and certain Bureau programs. The services involve training of tribal personnel in accounting techniques, principles and practices; audit of Bureau Indian Special Disbursing Agent accounts; audit of Employment Assistance and Imprest Fund Cashiers; and provision of administrative accounting services as requested including Tribal Housing Authorities and Bureau contracts. The Office includes a staff office in Littleton, Colorado.

B. The *Contracting Staff* provides staff assistance to the Director regarding Bureauwide contracting from nonestablished sources. The division is responsible for development, promulgation and implementation of Bureau policies and procedures for all such contracts. The division develops and reviews the regulations, guidelines, procedures and techniques related to Bureau contracting matters and recommends appropriate action. It reviews and evaluates Bureauwide contracting for effectiveness and recommends appropriate action. It provides technical leadership to contracting functions throughout the Bureau. It develops and identifies contracting training material and conducts training sessions for Bureau and Indian tribal contracting personnel. It also develops and devises innovative procedures and methods that may be used to broaden Indian self-development in all phases of contracting with the Bureau.

C. The *Equal Employment Opportunity Staff* develops and monitors a continuing affirmative action program designed to promote, under applicable law and regulations, equal employment opportunity throughout the Bureau. The office includes a Federal Women's Coordinator who has the responsibility to assure that equal opportunity for women is an integral part of the overall equal employment opportunity program.

.2 The *Administrative Services Center* located in Albuquerque, New Mexico, under the supervision of an Assistant Director, is responsible for providing facilities and services for the administration of the Bureauwide centralized administrative and management systems which are automatic data processing related. The Center provides and operates a centralized data processing facility. The Office of the Assistant Director includes an *Administrative Office* responsible for providing personnel, teacher recruitment liaison, equal employment opportunity, financial, and procurement and property services to Central Office installations in Albuquerque, New Mexico, and other selected locations.

A. The *Division of Automatic Data Processing Services* is responsible for administering the Bureauwide automatic data processing program. It develops and implements policies, guidelines, and standards relating to all phases of ADP and provides liaison with the Department and all Bureau activities. It advises, consults, and assists in developing automated management, administrative, and mission-oriented systems. It provides ADP systems and programming services, and monitors Bureau activities for compliance with established ADP standards, guidelines, and regulations. The Division maintains and manages a computer center in an intra-bureau sharing environment. The Division plans for new ADP equipment and/or services in cooperation with user organizations. It also evaluates and recommends to the Director of Administration the acquisition of computer equipment as required in support of Bureau ADP plans. The Division includes special units for developing and administering automatic data processing systems for land use and resources, tribal enrollment and judgments, education systems, payroll, personnel, accounting, planning and evaluation, and engineering support systems.

B. The *Division of Operations* performs centralized administrative functions which include maintenance of accounting records, preparation of consolidated financial and personnel reports, payroll operations, voucher examination operations, maintenance of personnel computerized records, maintenance of tribal trust fund records for investment purpose and performance of the mechanics of tribal trust fund investment.

.3 *Financial Management*, under the supervision of an Assistant Director, is responsible for the development of policies, programs and guidelines for financial management functions and for performance of the functions identified with the budget cycle. The office of the Assistant Director serves as a coordination point and central source for Indian population data and for special statistical analysis.

A. The *Division of Accounting Management* provides staff assistance to the Assistant Director regarding the Bureau programs designed to provide advice and guidance in areas of accounting, fiscal operations, financial management, accomplishment reporting, and information systems. The Division develops standards, specifications and operating procedures for these functions. It develops policies, systems, and procedures to be used throughout the several designated accounting stations of the Bureau.

B. The *Division of Program Development and Implementation* provides staff assistance to the Assistant Director regarding those functions identified with the budget cycle. In coordination with program directors, the Division implements the Commissioner's policies and program goals through the budgetary process; develops instructions for use in annual program plans; reviews program requests on the basis of fiscal reasonableness, feasibility and justifiability; reviews proposed tribal comprehensive plans to determine fiscal feasibility for package funding; develops Bureauwide program planning documents; develops budget estimates and justifications; prepares for budget legislative hearings; prepares field planning allowances and tentative allocations. Performs budget execution functions, including continuing resolutions, encoding programs to the finance system, allotting funds, position and personnel ceiling, comparisons of actual and planned funds and accomplishments, and reporting exceptions between planned and actual conditions.

.4 *Management Services*, under the supervision of an Assistant Director, is responsible for the development of policies, programs and guidelines for the general management functions. The Assistant Director supervises the support and housekeeping services for the Washington Office, Eastern Area, and the Indian Arts and Crafts Board. This office is the primary contact and coordination point for reporting and reviewing alleged irregularities within the Bureau's scope of operation.

A. The *Division of Faclities Engineering* located in Albuquerque, New Mexico, with a liaison office in Washington, D.C., provides staff assistance to the Assistant Director regarding the Bureau programs designed to provide architectural, engineering and other technical services related to the construction of new facilities. The Division coordinates the Bureau's program for major rehabilitation, alterations, improvement and maintenance of existing buildings, utilities, grounds and other facilities and provides technical services to tribes on construction and design. The Division also provides design and construction services on interdepartmental agreements and to Indian and Alaskan Natives as directed.

B. The *Division of Management Research and Evaluation* provides staff assistance to the Assistant Director regarding the Bureau's managerial functions. Conducts management studies throughout the Bureau on organization structures, staffing validations and utilization of resources. Reviews and examines the Bureau's administrative systems for effectiveness which includes analysis of work flow, procedures and accomplishments. Conducts or coordinates evaluation studies on managerial, and administrative operations; and program operations as they relate to management. Provides technical assistance on evaluations of specific functionl areas. Analyzes, for management purposes, evaluation reports prepared by other organizational segments in the Bureau. Responsible for Bureauwide paperwork management programs including records management, directives management, reports and forms control, Federal Register publications, and delegations of authority. Reviews, for top management, request for revisions in organizational structures, delegations of authority and Bureauwide directives. Performs special studies or projects, having Bureauwide significance, as directed.

C. The *Division of Personnel Management* provides staff assistance to the Assistant Director regarding the Bureau programs designed to provide personnel management services. The division develops Bureauwide programs and policies for obtaining and managing these personnel resources. This includes such programs as personnel management evaluation; position classification; pay administration; position management; recruitment and placement; manpower planning and forecasting; training; career development; employee relations; labor relations; incentive awards; and employee benefits.

D. The *Division of Property Management* provides staff assistance to the Assistant Director regarding Bureau programs for property management, and Procurement from established sources. The division is responsible for development, promulgation and implementation of Bureau policies and procedures for all such programs, and reviews and evaluates these programs for effectiveness and recommends appropriate action. It provides Bureau oversight for procurement services on items which have Bureauwide or multiarea applications. It provides for technical leadership for the management of these programs throughout the Bureau.

E. The *Division of Safety Management* provides staff assistance to the Assistant Director regarding Bureau safety matters. This includes programs relating to the prevention of accidents, reduction of injuries and fatalities, improvement of health safety conditions, processing of compensation cases, occupational health and safety programs, and highway safety programs. The division also reviews architectural and engineering drawings on major construction of buildings and utilities for compliance with national fire standards. The division develops internal and tribal safety programs including policies and guidelines for these programs. It develops policies, procedures and standards for Bureauwide fire prevention and fire protection programs. It conducts investigations and collects data for the Solicitor's Office on tort claims.

F. The *Division of Support Services* provides staff assistance to the Assistant Director regarding Bureau programs designed to provide administrative support and housekeeping services for the Washington Office, Eastern Area, and the Indian Arts and Crafts Board. This includes services related to contracting, facilities engineering, finance, office services, personnel, procurement, and property.

### *Chapter 8—Field Organization*

1. *Field Organization.* For the purpose of administering its field activities, the Bureau has divided the United States into twelve areas. Each is designated by the name of the city in which the area office is located, except the Navajo Area Office, which is located in Window Rock, Arizona and the Eastern Area which is headquartered in Washington, D.C.

A. *Area Offices.* Each Area Office is under the direction of an Area Director who is responsible to the Commissioner for all activities of the Bureau within the Area. The Area Director is a line officer. He is typically assisted by a Deputy Area Director or by one or more Assistant Area Directors who are redelegated line authority. The typical Area Office includes staff specialists in several or all of the Bureau programs to assist in the discharge of the following Area responsibilities:

(1) Represent the Bureau in its dealings with the Indians, the public, State governments and other Federal agencies with respect to the Area's jurisdiction;

(2) Direct and assist in the application and implementation of overall policies and programs by operating offices, provide the necessary technical advice and review, evaluate performance and coordinate those features of programs which are wider in scope of application than the jurisdiction of a single operating office;

(3) Recommend to the Central Office revisions of policies, programs, procedures, and regulations; and

(4) Perform functions of an administrative and housekeeping nature which can be done most efficiently and economically on an area-wide basis. The Areas headquartered at Anadarko, Oklahoma; Minneapolis, Minnesota; and Sacramento, California, receive administrative support from the Muskogee, Oklahoma; Aberdeen, South Dakota; and Phoenix, Arizona, Area Offices, respectively. The Eastern Area receives administrative and program support from the Washington Office.

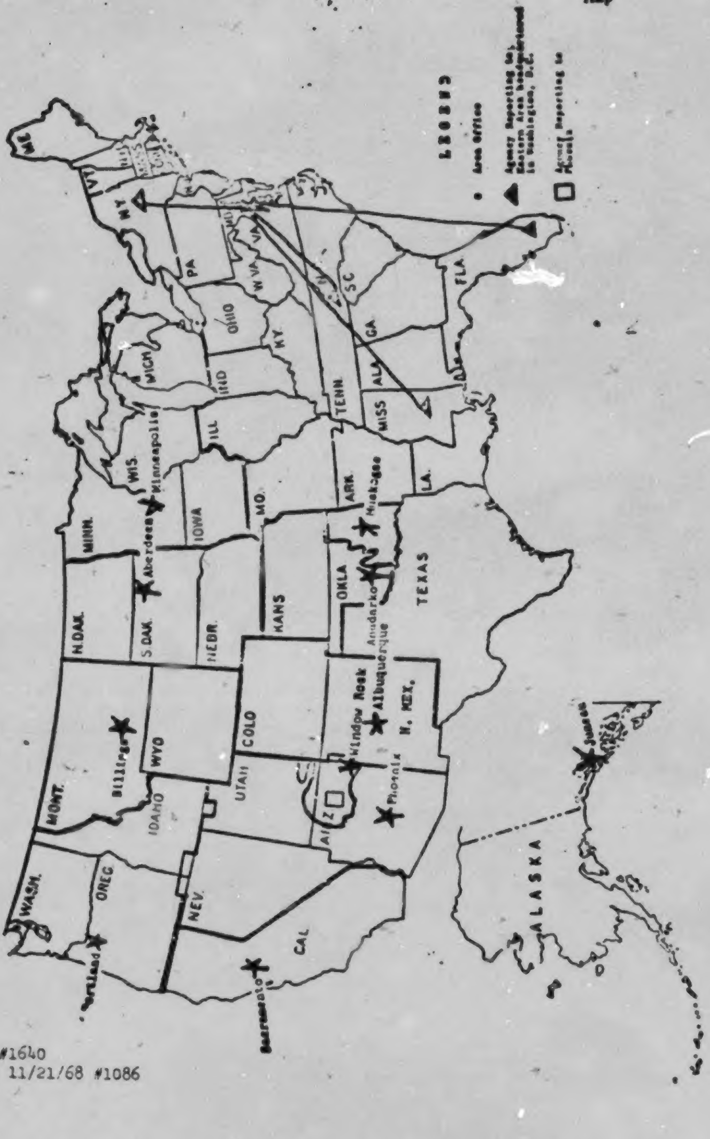
B. The *Joint Use Administrative Office* located in Flagstaff, Arizona, is an operating office responsible to the Commissioner for carrying out those functions related to the use and management of lands within the Joint Use Area. The office will act to achieve the fullest cooperation and compliance of the Hopi and Navajo Tribes and their individual members to resolve the problems within the Joint Use Area. It provides for judicial administration, law enforcement, and crime prevention services to the Indian people located within this area. It also seeks to obtain assistance from other Federal agencies; states, local and tribal governments; and private sources in carrying out the functions of the office.

C. *Agencies.*—Agencies, the third organizational level of the Bureau, may conduct several or all of the activities of the Bureau on one or more reservations, in contrast to other types of field installations which may have specialized activities (D and E). The Superintendent of an agency is responsible for the development and execution of immediate and long-range programs to fit the needs of the people and the reservation(s) under his jurisdiction. He reports to the Area Director of the area in which the agency is located. Assisting the Superintendent are specialists in several or all of the Bureau programs, as needed.

D. *Off-Reservation Boarding Schools.*—Boarding schools which are not located on reservations are used for the education of Indian children who otherwise would not be able to attend school. The schools are under the direction of a School Superintendent who reports directly to the Area Director of the Area in which the school is located.

E. *Flathead, Navajo, San Carlos, and Wapato Irrigation Projects.*—These major irrigation projects are under the direction of a Project Engineer or Manager who reports directly to the Area Director of the Area in which the project is located. Their primary purpose is the supplying of water to Indian irrigable lands. The projects may also serve non-Indian lands and provide electrical services to the reservation and adjacent areas for project or private use.

AREA ORGANIZATION—BUREAU OF INDIAN AFFAIRS


LEGEND
Area Office
Agency Reporting to Eastern Areas headquartered in Washington, D.C.
Agency Reporting to Phoenix
ME
VT
NH
MASS
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OKLA
Anadarko
KANS
NEBR.
S.DAK.
Aberdeen
N.DAK.
Albuquerque
Window Rock
N. MEX.
COLO
WYO
Billings
MONT.
IDAHO
UTAH
ARIZ
Phoenix
NEV.
CAL
Sacramento
OREG.
Portland
WASH.
ALASKA
Juneau

5/20/74 #1640
Replaces 11/21/68 #1086

## REPORT OF THE TASK FORCE ON INDIAN EDUCATION:

### AN ISSUE PAPER AND RECOMMENDATIONS

*Purpose*

The Indian Education Task Force was formed by Commissioner Marland in April 1971. Its creation was stimulated by: The President's strong July 1970 Message on American Indians; The continued congressional concern with OE's role in Indian education (which most recently resulted in Senate passage of S. 2482, a bill designed to dramatically expand OE's role in this area); and The Commissioner's desire to thoughtfully examine OE's position regarding Indian education.

The Task Force was convened, therefore, to: Assess and define OE's current efforts in Indian education; recommend a policy framework for OE in Indian education; and make specific recommendations for enhancing the effectiveness of OE's contributions.

The function of this paper is to fulfill the Task Force's mandate by clarifying and analyzing the issues, delineating appropriate options, and offering recommendations for a future course of action. It is our hope that this report can assist in clarifying OE's policy for Indian education.

*Scope of the paper and outline*

The issue paper deals with two basic questions: OE's role in Indian education, qua "Indian education," and how OE can best pursue such a course once it is defined. In addition, the Task Force began investigation of some of the specific program issues facing OE in Indian education.

While the Task Force has covered considerable ground, this paper should not be considered an exhaustive examination into all the relevant program and policy areas relating to OE's efforts in Indian education. In part, this paper should be viewed as a foundation—in terms of policy and organization—that will enable OE in the coming years to address many important program areas such as Indian studies, educational manpower planning and research priorities.

*Outline*

I. An Overview:
    A. Indian Community
    B. Federal Educational Efforts
    C. Recent Issue Development
II. OE's Role in Indian Education:
    A. Issue 1—What role should OE play in Indian education? Recommendation.
III. Implementing Recommended Role. Review of OE's current efforts.
    A. Issue 2—How should OE manage its efforts in Indian education? Recommendation.
IV. Specific Program Matters:
    A. Issue 3—How should OE deal with charges that Title I and P.L. 874 do not adequately serve Indian children? Recommendations.
    B. Issue 4—How should OE obtain policy guidance from Indian educators and representatives outside of OE? Recommendations.
    C. Issue 5—How should OE address the movement for Indian control of schools? Recommendation.
    D. Issue 6—How should OE address the educational problems of urban Indians? Recommendation.
V. Conclusion.
    Review of Task Force recommendations. Goals Statement.

### I. AN OVERVIEW

*A. Indian community*[1]

According to preliminiary 1970 Census reports, there are 827,091 American Indians in the country. This figure embraces more than 500 different tribes from the very large and organized Navajo Nation to the smaller and less cohesive Quillayute band in Washington State. There are Indian tribes in every State, some of whom live on Federal reservations, others on State reservations, and still others who have no reservation status at all. As there is variation in tribes, their cohesion and their status, so is there tremendous variety in Indian languages of which there are 100 to 150 in existence today.

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[1] In this report, we have used the broad term of "American Indian" so as to include Alaskan Natives: Indians, Eskimos, and Aleuts. The term "American Indian" and "Indian" are used for editorial convenience and are not meant to gloss over significant differences between these populations.

The Indian population today is roughly divided with one-third on reservations, one-third in non-reservation rural situations, and one-third in urban areas. The most striking growth has occurred, and continued, in the urban areas which in 1960 held only 28 percent of the Indian population and is now estimated at 38 percent. The three sub-populations share many common challenges but each must be examined separately in order to construct a comprehensive policy.

Some social analysts have described the American Indians as the "most disadvantaged" minority group. While the data do not exist to determine the precise accuracy of that judgment, Indians clearly rank among the most disadvantaged populations in the country. (See Data Summary, Appendix A.)

The school-age Indian children are currently enrolled in three types of schools: regular public schools that are a part of the public State educational systems, Federal schools operated by the Bureau of Indian Affairs, and private or mission schools operated by either religious groups or the tribes. The approximate percentages are:

| Type of School | Percent | Number |
|---|---|---|
| Public schools | 73.5 | 197,245 |
| BIA | 19.6 | 52,591 |
| Private | 6.9 | 18,323 |
| Total | 100.0 | 268,323 |

Note: See app. B.

The table shows that *roughly two-thirds of the Indian school-age children attend public schools that are a part of State educational systems.* These children include some of the students who live on reservation property as well as children living off the reservation. It should be noted, too, that in numerous instances the public schools are actually located within Indian reservations even though they are part of the State educational system.

Existing data do not outline the status of educational achievement among Indian children in a way that is both precise and comprehensive. Nevertheless, the evidence available suggests that Indians suffer the severe levels of educational disadvantageness that are at least equal to those afflicting other groups in low socio-economic brackets.

Estimates for dropout rates before the twelfth grade are extremely high, ranging from the 45 percent average in a 1969 study by the Southwest Cooperative Educational Laboratory to the 62 percent dropout rate found in Minneapolis by the Minnesota Department of Education in 1969. Underlying the dropout statistics is a disturbing question of how Indians perceive "the schools." Dr. Havighurst's study[1] found less outright disapproval of the schools by Indian parents and students than is implied by the Coleman Study[2] which indicated that Indian children, more than any other group, believed themselves to be below average in intelligence and had the poorest self-concept of all minority groups tested. Nevertheless, Havighurst did confirm the widespread and deep feeling among Indians that much is needed to make schools places that understand and value "who Indians are."

### *B. Federal Educational Efforts*

*1. History of Federal Involvement.*—Federal involvement in Indian education dates back to 1802 when Congress began appropriating ($15,000) funds for education and other public services for Indians. In 1832 Congress created the post of Commissioner of Indian Affairs and gave him the responsibility for Indian education. The Office of Education took its first significant step into Indian education in 1953 when Public Law 81–815, authorizing construction assistance in federally affected areas, was amended (Section 14) to include public school districts enrolling Indian children living on Federal land. The role was significantly increased in 1958 when P.L. 81–874, providing general operating resources to federally affected districts, was amended to allow public school districts enrolling Indian reservation children to receive both Johnson-O'Malley and P.L. 874 funds. In 1967 Title I of the Elementary and Secondary Education Act was amended to include Indian children in Federal schools run by BIA. During the 1960's Federal efforts in Indian education were also enhanced directly and indirectly by the arrival on reservations of new programs from the Office of Economic Opportunity and the Department of Labor.

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[1] *The National Study of American Indian Education*, Dr. Robert J. Havighurst. Summary Report and Recommendations, Series IV, No. 6, 1960, Center for Urban and Regional Affairs, University of Minnesota, pp. 14–20.

[2] *Equality of Educational Opportunity*, James S. Coleman, et al. A publication of the National Center for Educational Statistics, 1966, Documents Catalog No. FS 5.238.38001, U.S. Government Printing Office, p. 288.

2. *Legislation.*—The major pieces of Federal legislation aiding Indian education are:

(*a*) The Snyder Act—1921, administered by the Secretary of Interior. This Act constitutes the basic authorizing legislation for the various program activities of the Bureau of Indian Affairs, including education. Educational funds allocated under the Snyder Act provide the basic operating resources for the BIA school system.

(*b*) Johnson-O'Malley Act—Enacted in 1934, administered by the Secretary of the Interior, it authorizes the Secretary to make contracts with any State "for the education, medical attention, agricultural assistance and social welfare of Indians."

(*c*) Public Laws 81–874 and 81–815—School Assistance to Federally Affected Areas (SAFA), enacted in 1950. P.L. 874 provides general operating resources, and P.L. 815 construction assistance, to public school districts enrolling children whose parents either live or work on Federal property. Through amendment, both acts effectively include as eligible many districts enrolling Indian children living on Federal reservations.

(*d*) Title I of ESEA—Enacted in 1965, affects Indian education in two ways: Through BIA school systems and through the regular public school systems. BIA receives a setaside of 0.85 percent of the Title I appropriation to provide compensatory services for disadvantaged school children in their system. At the same time, regular public school districts receive Title I funds because they enroll disadvantaged children who happen to be Indian. Titles II and VII of ESEA also provide set-asides to the Bureau of Indian Affairs.

(*e*) OE Discretionary Programs—EPDA, Upward Bound, Talent Search, Special Services, Bilingual Education, MDTA, Teacher Corps, etc.

(*f*) Other Agencies—OEO, Department of Labor.

3. *Current Federal Educational Funding.*—

| Agency | Fiscal year 1971 | Fiscal year 1972 |
|---|---|---|
| Bureau of Indian Affairs: | | |
| Total | [1] 190,475,730 | [1] 216,707,000 |
| Snyder Act | 118,711,615 | 142,286,000 |
| Johnson-O'Malley Act | 25,537,877 | 22,652,000 |
| Office of Education: | | |
| Total | [1] 79,416,895 | [1] 79,944,009 |
| Title I (total) | 27,000,000 | [2] 27,000,000 |
| BIA set-aside | (11,702,304) | [2] (12,184,000) |
| LEA's with disadvantaged Indian children | (15,297,296) | [2] (15,816,000) |
| Public Law 874 | 23,096,000 | 26,390,000 |
| Public Law 815 | 5,549,917 | 1,500,000 |
| Discretionary programs | 21,417,491 | 22,645,230 |
| Office of Economic Opportunity | [2] 26,000,000 | [2] 26,000,000 |
| Department of Labor | 5,700,000 | 6,202,000 |
| Office of Child Development | 8,872,917 | [2] 8,872,917 |

[1] Detailed figures will not add to totals; agency totals include funds from sources not specified in table.

[2] Estimated.

### *C. Recent Issue Development*

The history of Federal attention to Indian problems is cyclical, ranging from regressive measures, through indifference, to positive concern and back again. The termination "fever" of the 1950's was a low point in recent years, while the Special Senate Subcommittee (1967–1970) and the President's July 1970 Message reflect positive attention to Indian affairs in general, and to Indian education in particular.

The major current issues include: 1. Greater participation in, and control of, Indian education by Indians. 2. The distribution of Federal responsibilities in Indian education between BIA, OE, or a new National Board. 3. Development of educational programs that capitalize on Indian culture rather than discriminate against it.

Much of the recent issue development during the last five years has taken place in the Congress. The Special Senate Subcommittee on Indian Education, referred to above, was established in 1967 to "examine, investigate, and make a complete study of any and all matters pertaining to the education of Indian children." Chaired originally by the late Senator Robert Kennedy, and subsequently by Senator Edward Kennedy, the Subcommittee issued a report entitled, "Indian Education: A National Tragedy—A National Challenge," which was an extensive indictment of the Federal role in the education of Indians.

The ultimate product of the Subcommittee was a bill, "The Indian Education Act of 1971," that focuses on a significantly expanded role for the Office of Education in Indian education. Opposed by the Administration, that bill is now substantially incorporated in S. 2482 which recently passed the Senate by a vote of 57–0 and now awaits committee action in the House. (See Appendix D for a summary of the bill.)

Several other bills have been proposed that deal with various aspects of Indian education, including a recent "comprehensive" bill submitted by Senator Jackson that includes S. 2482 but deals with BIA as well. For the moment, however, S. 2842 is the focus of congressional and Indian attention.

The basic policy document of the Administration is President Nixon's July 1970 Message to Congress on Opportunity for American Indians. The Message is a strong and positive assertion of (1) the Indians' right to self-determination and (2) the continuing responsibility of the Federal Government to preserve a special relationship with Indians as long as they choose to have the relationship maintained. In dealing with education, the Message unequivocally supports the right of Indian communities to take over control of the BIA-run Federal schools new serving them. It also proposed legislative changes in the Johnson-O'Malley legislation that would enable the Secretary of Interior to give Indian communities and groups increased control of Johnson-O'Malley distribution within State educational systems.

While the Office of Education has been a prominent topic and subject of recent policy discussions on Indian education, it has not been as visible as a participant in those deliberations. Indeed, the DHEW and OE have for the last three years been in a position of having to react to policy initiatives being developed either in the Congress or in the Domestic Policy Council. Two years ago then Assistant Secretary Butler testified before the Senate against S. 2482, opposing the Bill while professing the Department's good intentions to explore and propose positive options to the provisions of the Bill. Commissioner Marland faced essentially the same predicament a year later in April when he testified against the same Bill before Senator Pell's Subcommittee. In his testimony, however, the Commissioner did give visibility to this Task Force as OE's commitment to systematically and carefully assess its present and future role.

On a less visible level, OE and BIA have taken initial but significant steps to meet joint responsibilities. These steps include Memoranda of Agreement between the two agencies governing the Title I set-aside to BIA, Title VII ESEA (bilingual) funds, and the OE-BIA supported Indian graduate program scholarship.

Finally, a major policy challenge has been leveled against the Federal efforts in Indian education in the well-publicized study by the NAACP Legal Defense and Educational Fund entitled, "An Even Chance." In addition to criticizing BIA's administration of the Johnson-O'Malley program, the study makes strong allegations against the delivery of resources to Indians under Title I ESEA and P.L. 81–874. Briefly, the study charges that:

State and local educational agencies with large numbers of disadvantaged Indian children are violating the law by (1) not using Title I funds for compensatory or special programs designed to meet the needs of those Indian children; (2) not targeting Title I recourses on areas with the highest concentrations of disadvantaged students, in these cases Indians; and (3) pursuing decision-making and hiring procedures that discriminate against Indian people.

School districts receiving funds under P.L. 874 due to the presence of reservation Indian children are denying Indian children the benefit of these resources. (In charging that school districts are not using Impact Aid funds that are "earned" by Indian children *for* those children, the authors of "An Even Chance" may have had some confusion concerning the purposes of P.L. 874. Under present authorization, the law does not stipulate how the funds should be used. Indeed it is often referred to as "free" money. However, it might be worthwhile for OE to consider whether districts are, as the study charges, discriminating against Indian children where Federal funds [in this case P.L. 874 monies] are involved.)

## II. OE'S ROLE IN INDIAN EDUCATION

The Office of Education plays a funding role in Indian education that has grown over the last 20 years to its present level of some $79 million. As indicated earlier, this is due primarily to the extension of P.L. 874 in 1958 to cover local school districts which enroll students living on Federal reservation property, and to the inclusion of BIA schools into Title I ESEA in 1967. During this time, the amount of resources going to Indian or Indian-related projects through discretionary programs has also increased to a significant level of $22 million.

If we exclude P.L. 874, which is basically an acknowledgment of the burden resulting from the presence of untaxable Federal property in a district, OE's funding role in Indian education is essentially an outgrowth of its growing commitment to the disadvantaged. The Title I set-aside the BIA recognized that economically and educationally disadvantaged children attended the schools operated by the Department of Interior. Within the discretionary programs, a significant number of projects and a notable level of expenditures have evolved as those programs, in focusing on the "disadvantaged," have rightfully acknowledged Indian needs as an integral and valid component of that priority. At the present time, therefore, "Indian education" efforts and expansions of them are being carried out under the Commissioner's priority objective of serving the disadvantaged population as a whole.

In terms of its explicit policy, this agency does not acknowledge any special commitment to Indians as a distinct group beyond their status as (economically) disadvantaged. The point at issue is whether this is sufficient, or whether OE should address Indian needs on some basis that extends beyond the basically economic criteria used in the identification of disadvantaged persons as a target population.

### A. *Issue 1—What role should OE play in Indian education?*

Should OE continue to treat Indians as part of the more extensive disadvantaged population, or as Indians? And, furthermore, if OE does acknowledge Indians as having some special claim on its attention, what shape should that acknowledgment take, and what limitations should circumscribe it?

#### *Discussion*

Several factors coincide to raise the issue of OE's role in Indian education. Basic to the discussion are the estimated 200,000 (or almost three-fourths of the estimated 270,000 elementary and secondary Indian enrollment) who attend regular public schools. This fact graphically illustrates that the education of American Indian children is not solely, or even predominantly, a "reservation problem," but a challenge that increasingly confronts State and local educational agencies.

The President's Message on American Indians of July 1970 constitutes a second major element in the issue. As described earlier, the Message is a clear affirmation of the Indians' right to self-determination. It also states repeatedly that a "special" and "enduring" relationship exists between American Indians and the Federal Government. The Message goes on to describe education as ". . . one of the saddest aspects of Indian life in America today." While it does not spell out a role for OE in fulfilling the "special relationship," the President's Message does not restrict that relationship to reservation areas. Indeed, it clearly implies that a considerable number of non-reservation Indian school-age children are the subject of Federal responsibility.

Thirdly, as outlined above, OE presently has a very significant *de facto* funding and development role in Indian education. Through Title I, P.L. 874, and the various discretionary programs, OE delivers resources that are not only a notable part of the Federal aid to Indian education, but an important part of all funding for the education of Indians. However, among Indian groups and members of Congress, there is a conviction that major steps must be taken if the full potential of OE's participation in Indian education is to be realized. Both the "Even Chance" study and the provisions of S. 2482 assume that OE must focus increased and diligent attention to Indian needs if the agency is to meet responsibilities to that population implied by its present role of delivering more general programs such as Title I, P.L. 874 and developmental activities.

In short, many Indians and some Congressmen believe that while the OE programs allocate significant dollar amounts to Indians, the impact too often does not reach the people. They conclude, therefore, that a separate structure of management and legislation is needed within OE to deliver what should have come through the broader programs but, in their opinion, has not.

The fourth element is the increasing frequency with which Indian educators and Indian groups have been turning to OE for assistance—in part out of dissatisfaction with the services provided by the Bureau of Indian Affairs. This dissatisfaction stems from at least two sources: those who feel that BIA is not moving quickly enough nor providing adequate resources in the transfer of its schools to Indian control; and those who claim that BIA does not adequately serve the non-reservation Indians.

All of these factors have combined to raise the question of OE's role in Indian education. Put most simply, the question "What role should OE play in Indian education?" is open-ended and invites so many answers as to be confusing if some further specification is not imposed. The Task Force narrowed the options by accepting the following assumptions:

That the Bureau of Indian Affairs will continue to be the Federal agency which most thoroughly represents the special relationship between Indians and the Federal Government.

That OE's fundamental policy stance will continue to be to promote equal educational opportunity for all citizens, with particular attention to the needs of disadvantaged persons, on the basis of their disadvantageness rather than their ethnic and cultural background, *per se;*

That in articulating the "special relationship" between Indians and the Federal Government, the President did not, and did not intend to, restrict the existence of that relationship merely to Federal trust lands (reservations).

Within those assumptions, the Task Force identified two major options:

1. A role that reaffirms OE's commitment to the disadvantaged as a whole, basically according to economic criteria and does not set out the attention to Indian needs as a special or separate priority. OE would have a certain role in Indian education, but it would remain one of *de facto* funding resulting, essentially, from OE's commitment to the disadvantaged.
2. A role that admits an OE responsibility in fulfilling the special relationship between Indians and the Federal Government, but does so within limitations that acknowledge OE's commitment to all the disadvantaged, and that recognize that OE is not the major Federal locus for fulfilling the special relationship.

[The assumptions imposed by the Task Force eliminate a third option, but it was discussed and should be mentioned. At various times, recommendations have been offered which would transfer BIA to HEW and consolidate Federal educational responsibilities for Indians in the Office of Education, a move that would clearly give OE the predominant role in the area of Indian education.]

The difference between options 1 and 2 is relatively small and subtle, boiling down to whether OE takes steps to identify Indian needs as a separate priority and commits additional staff resources to that purpose. But while the distinction is not great (in terms of new legislation or sizable funding increases), the Task Force believes that the consequences are significant: It constitutes a visible departure from OE's existing policy stance, and it relates to the allocation of staff positions at a time when these are critically scarce.

### *Recommendation*

The Task Force recommends that OE adopt Option 2 and delineate a role in Indian education that includes special attention to its efforts for that group (beyond its commitment to the disadvantaged as a whole target group), but which is limited in the extent of special focus by OE's many other policy commitments.

In effect, the Task Force believes that OE should expand its role in Indian education by establishing a special but realistic focus on Indian educational needs. On the one hand, OE's planning and delivery of resurces to Indian education should not be a mere component of its program for the disadvantaged, but on the other hand, OE's special focus cannot be as extensive and as open-ended as that of the Bureau of Indian Affairs.

### *Justification*

The Task Force acknowledged significant arguments against Option 2, including those which state:

That OE should not begin the precedent of having explicit policies to serve cultural groups as such;

That in the interest of clarifying lines of responsibility and enhancing Federal accountability, one agency, the Bureau of Indian affairs, should be held responsible for fulfilling the special Federal relationship with Indians; and

That OE already has several major priorities and it should not proliferate these. Indeed, Indian educational needs have been served consistent with OE's commitment to the disadvantaged, and they should be served as a part of that priority in the future.

At the same time, the Task Force found convincing arguments for increasing OE's role in Indian education to include some special, if limited, attention to Indian educational policy by the agency. These arguments include:

Two-thirds of the Indian school-age children presently attend regular public schools. As the Federal agency with primary responsibility for dealing with public school systems, the Office of Education must share the responsibility of fulfilling the special relationship affirmed by the President in his July 1970 Message.

OE funds now constitute a significant portion of all Federal funds for Indian education, and funding from all sources. Realizing the full potential impact of these funds becomes critical to progress in this area.

Some unique aspects of the Indian experience argue for "special" consideration for Indians from Federal agencies:

> There is a precedent for special Federal acknowledgment since Indians are the only minority group to have been the subject of extensive Federal regulatory legislation.
>
> Indians are so small in number, and their political cohesion is so offset by the great cultural variation between tribes, that they have difficulty competing in regular political and administrative decision-making mechanisms.

### III. IMPLEMENTING RECOMMENDED ROLE

The Task Force, assisted by staff from the Office of American Indian Affairs, attempted to meet with program personnel throughout OE whose responsibilities relate fairly directly to Indian education. The following general assessment is based on those interviews. It should be noted that this general assessment does not adequately represent the full range of the specific program efforts and accomplishments undertaken by OE in Indian education. In generalizing, and by selecting out elements such as "Indian policy focus," "planning and decision-making process for Indian projects," "coordination with BIA," and "coordination in OE," we necessarily have left unlisted many noteworthy developments.

The Task Force review, found, not surprisingly, that OE's current efforts in Indian education are a combination of significant contributions and unrealized potential.

One positive element in OE's effort is the dollar amount that is going toward Indian education. As indicated earlier, the agency's role in this area has been, essentially, a funding role that is a virtual by-product of its commitment to the disadvantaged. Nevertheless, the overall funding level and the efforts within some individual programs are impressive.

OE EXPENDITURES IN INDIAN EDUCATION[1]

| Program | Fiscal year 1971 | Fiscal year 1972 |
|---|---|---|
| Elementary and secondary | $59,875,311 | $60,170,687 |
| Education professions development | 6,473,648 | 5,793,540 |
| Higher education | 5,289,532 | 5,289,532 |
| Student financial aid | 1,803,900 | 1,803,900 |
| Adult basic education | 1,543,592 | 1,639,000 |
| Vocational education and manpower development | 3,025,755 | 3,817,350 |
| Education for the handicapped | 110,000 | 130,000 |
| Library services and educational technology | 1,295,157 | 1,300,000 |
| Total | 79,416,895 | 79,944,009 |

[1] See app. F-3 for detailed OE budget estimates.

In addition to significant dollar levels, OE is doing some noteworthy things with its funds in Indian education. Among these are:

A Bilingual Education project at the Rocky Boy Reservation in Montana. The Title VII funds are enabling the Indian controlled school board to provide kindergarten and first grade education in the Cree language. The project has relied heavily on parental involvement and has been assisted by a Career Opportunities Program grant that is training Cree teachers.

An Adult Basic Education Program, administered by the Minnesota Department of Education, but designed by Indians to seek solutions to their own adult educational problems. The program is one component of a family education approach to the needs of Minnesota Indians. In its implementation phase the program is reaching over 1,000 Indian people through four centers.

A Career Opportunities Program, serving four reservations in North Dakota and offering to Indian men and women the opportunity to become fully certified teachers.

An EPDA, V–E, program providing workshops for higher education personnel—recruiters, counselors, and student-aid officers—to acquaint them with the needs and problems of Indian college students. One product of the program was a guide to colleges and universities in the West.

While OE is, indeed, making significant efforts in Indian education, the Task Force noted two major areas needing attention: The delivery of major formula grant resources, primarily Title I and P.L. 874; and the coordination of discretionary grant efforts.

As outlined earlier, serious charges have been leveled against Title I and P.L. 874 by the NAACP Legal Defense Fund study, "An Even Chance." Those charges assert that these grant monies, which account for more than 68 percent of OE's funding efforts, are not being used for the benefit of Indian children.

The Task Force focused particular attention on the discretionary grant programs within the Office of Education because these programs, managed more directly by OE program personnel than the formula grant programs, constitute dramatic developmental potential. True for many target areas, it is especially pertinent for Indian education, where the $22 million now allocated to Indian or Indian-related projects, is serving a total target population that numbers less than a million people, and a school-age population that is even more discrete. Set against such a population the $22 million offers possibilities for developmental progress that are very appealing.

| | |
|---|---|
| Discretionary funds | [1] $22,000,000 |
| Indian population | 827,019 |
| Reservation | (488,000) |
| Non-reservation | (339,019) |

[1] See Appendix F2 for detailed OE budget estimates for discretionary programs.

The Task Force believed, however, that a precondition of realizing this potential was the degree of policy and program coordination that could be attained. The review of these programs, therefore, took pains to weigh the extent to which coordination on Indian projects existed within OE and between parts of OE and BIA.

The predisposition of the Task Force toward coordination also resulted in focusing on the presence or absence of policies and strategies that were particularly geared to Indian educational needs. To some extent this focus is unfair to program personnel who have never been asked, as a matter of policy, to develop special coordinating mechanisms and strategies for Indians. Nevertheless, the Task Force believed it necessary to take stock of where the agency is now.

On the basis of their review the members feel that the full potential of OE's discretionary efforts in Indian education is not being realized because:

Policy development, designed to clarify OE's role in Indian education and relate cross-bureau efforts, is absent from the higher levels of OE, outside of the Office of American Indian Affairs. Most of OE's work in Indian education is executed by project managers who have neither the mandate nor the time for policy planning and development. The motivation of these individuals is strong, but in most cases "Indian" projects are only a portion of their responsibilities. Their overall workload of projects, Indian and non-Indian, is heavy, leaving little time for general policy analysis.

The present "management" of OE's efforts in Indian education is excessively dispersed throughout the agency. The Task Force interviews found that coordination of any sort between the various discretionary program personnel dealing with Indian education is almost non-existent. Many of these individuals know one another, and all of them see value in greater coordination, at least to the extent of knowing where other programs have, or are planning, projects. A lack of time and the workload within their respective programs appears to be the major obstacle. But also working against "coordination" in the sense of joint projects is a widespread notion that "our program is different," or has its own particular purpose.

The Office of American Indian Affairs, as presently structured, does not and cannot fulfill the need for effective management of OE's efforts because:

> Its mandate does not stipulate a required inclusion into general and specific program decision-making processes that affect Indians throughout OE. Advocacy, its primary function, is a concept that, hopefully, is gaining operational clarification, but to this point there is not a widely accepted consensus that advocacy includes the kind of inclusion that effective policy coordination would entail.
>
> Because of the above factor and because the Office's resources are limited to insight into Indian needs, information on community conditions, and community credibility, OE program offices and BIA need submit to OAIA's "coordinating" efforts only at their own discretion. Some do, while others (including BIA) are less prone to do so.
>
> The Office's staff resources are essentially limited to the Director. Even under the optimum ceiling of three full-time professionals envisioned for the advocacy function, it could not carry out the extensive activities implied by effective cross-bureau coordination and maintaining pace with the Bureau of Indian Affairs.

With one or two notable exceptions, the discretionary programs do not operate with any particular "Indian policy." That is, increased efforts in Indian education are not pursued with the object of answering any particular configuration of Indian needs. For the most part, therefore, there are Indian projects that conform to the purposes and practices of the programs. Indeed, there are significant numbers of them, but few, if any, "Indian strategies." In most discretionary programs, the decisions to expand Indian education efforts are ad hoc and the result of "what comes in." Few programs undertake technical assistance that would generate fundable proposals according to an overall plan for Indian projects.

Coordination with BIA has improved minimally to the extent that Memoranda of Agreement have been signed regarding Title I, the Bilingual Program, and an Indian graduate program in educational administration. Initial policy discussions have taken place between the Office of Special Concerns and the Director of Education, BIA, but these are perfunctory and irregular. More frequent contact with parts of BIA is undertaken by the Office of American Indian Affairs in OE. However, that contact is ad hoc and most often constitutes informational activities rather than joint policy or program discussions.

Among OE's discretionary program areas there is the same absence of contact with BIA as exists between OE programs. This is true even though (1) BIA has similar programs in some instances; (2) set-asides are attached to OE funds for BIA; and (3) a significant portion of OE's discretionary funds going to Indian education are targeted on reservations or reservation related projects.

In summary, OE is allocating a considerable amount of money toward Indian education and supporting some very promising efforts. However, these resources are not being systematically focused on the needs of Indian children, a condition that dilutes their potential impact.

### A. *Issue 2—How should OE manage its efforts in Indian education?*

#### *Discussion*

Consistent with its first recommendation, the Task Force perceived the need in OE of some mechanism that could give needed focus to OE's already significant level of expenditures and project grant efforts. In particular, the Task Force saw the need in OE for:

Some way to do on-going policy development in Indian education for the agency as a whole; e.g., in areas such as Indian control, the status of BIA in OE programs, and the relationship with State educational agencies;

A way to effect cross-bureau cooperation that would lead to common site locations, consistent geographical targeting, and complementary projects;

Some means of promoting the development of optimum Indian education strategies within discretionary programs; and

Improved monitoring capacity regarding the delivery of State grant resources to Indian needs.

Looking at the need for the various kinds of "coordination" implied by the objectives listed above, the Task Force perceived a series of management options that might promote them. Ranging from minimum steps to rather extensive adjustments, the options include:

Identifying Indian education as a priority within the OPS management system while maintaining existing organizational arrangements;

Establishing a new policy and program coordination unit by expanding the mandate and strengthening the resources of the present Office of American Indian Affairs; and

Establishing a virtually separate Indian program office of division or bureau status that would manage "its own" discretionary and developmental resources.

The first and most basic decision of the Task Force was that the existing patterns of program responsibilities should not be unduly disrupted and duplicated. Rather, some way should be found to utilize existing program resources and lines of responsibility while improving their focus on priority Indian needs, and increasing the extent to which their efforts would complement one another within appropriate policy guidelines. This decision had the effect of disqualifying a totally separate and distinct Indian education program office. The Task Force believes that OE can take valuable steps in Indian education by purposefully utilizing existing program structures. Until this belief is proven wrong, the Task Force could not recommend an option that would effectively by-pass the present program offices by assigning OE's Indian education activities to a new and virturally separate program and line office. Furthermore, the Task Force felt that such an organizational option exceeded the "special but limited" role which it recommends for OE in Issue 1. Finally, the members feared that a separate program unit could have just the opposite effect than what is intended; i.e., rather than enhancing all of OE's efforts in meeting Indian needs, there might be a tendency to dump those responsibilities on "the Indian office."

Returning to the other options, inclusion of Indian education into the Operational Planning System and strengthening the present Indian advocacy unit, the Task Force proceeded with the following observations:

That two steps were not mutually exclusive.

That OPS is a basic management mechanism, but it assumes that somebody has the responsibility and capability of carrying out the various responsibilities. It would not, by itself, overcome the dispersion of responsibility.

As indicated earlier, the present mandate and resources of the Office of American Indian Affairs do not measure up to the multi-faceted coordination activities which the Task Force considers advisable to maximize the impact of OE efforts.

It is against this background that the Task Force offers its recommendations.

### *Recommendations*

That Indian education be identified as one of the Commissioner's priorities.

That the present Office of American Indian Affairs be expanded in its mandate and in its staff resources; that it may constitute an effective "coordinating" unit capable of undertaking the concrete dimensions of that role for and in OE. The Task Force considers it premature to offer precise staff and resource specifications for an expanded office. However, as an indication of the scope which the members envision for this expansion, we would anticipate dimensions that included up to 10 positions and $100,000 available in S & E resources additional to basic salaries.

That the office remain located in the Office of Special Concerns.

That the Deputy Commissioner for Management and Assistant Commissioner for Special Concerns develop the detailed mechanics and manpower requirements for this office such that it can pursue the following mandate:

> To oversee the implementation of the Commissioner's decision stemming from this report.
>
> To bear responsibility and authority for implementing and tracking a Commissioner's priority on Indian education.
>
> To bear primary responsibility in OE for developing agency and cross-bureau policy in the area of Indian education in areas such as "Indian control," and relations with public school systems and educational renewal. This should be clearly a joint responsibility of OE policy and program planning offices and the Indian office. However, there should be a clear stipulation that the Indian office should have an opportunity to "sign off" on program planning and budgeting decisions in major areas of policy development affecting American Indians.

To establish and sustain formal policy channels with the Bureau of Indian Affairs. These channels, designed to coordinate existing policy and program contacts between the agencies and expand them, should be developed as quickly as possible. The Indian office should initiate their development but should draw upon identified personnel throughout OE, particularly in the Budget Office and the Office of Program Planning and Evaluation. It is important that an agenda of policy and program matters of mutual concern to BIA and OE be established and pursued.

To develop with specific discretionary programs appropriate strategies for the allocation of program projects and resources.

To develop with as many discretionary programs as initially feasible appropriate procedures through which the Indian office could effectively review proposed Indian projects.

To provide or arrange at its own discretion for technical assistance to prospective or existing Indian projects.

To monitor at its own discretion particular OE supported projects, with prior notification to headquarters program staff and Regional Office staff.

To develop an OE strategy that specifically would entail:

The identification of educational priority areas; e.g., manpower and personnel or educational materials, etc.;

> The possible geographical or demographic focusing of discretionary resources going into Indian education;
>
> The realization that certain aspects of Indian education, especially those dealing with the supply of basic educational resources are not unmanageable, given the total estimated school population of less than 300,000 children.

## IV. SPECIFIC PROGRAM MATTERS

In addition to the basic questions of (a) OE's role in Indian education and (b) the management of OE's efforts, the Task Force addressed a number of the more important specific program issues which are currently part of the policy debates in this area. The discussion of these issues, and the recommendations offered, should not be considered final or exhaustive. Much work needs to be done by OE on these questions and many others. By raising them in this report, the Task Force acknowledges their importance and offers suggestions as to how OE can begin dealing with them expeditiously.

### A. *Issue 3—How should OE deal with the charges that Title I and P.L. 874 funds are not being targeted to the needs of Indian children who are entitled to such attention?*

#### *Discussion*

As indicated earlier, the NAACP Legal Defense Fund published a report in 1971 which charged serious shortcomings existed in the delivery of Federal educational resources to Indian children. Included in the report were the Johnson-O'Malley program administered by the Department of Interior, and Title I ESEA and P.L. 874, administered by the Office of Education.

We have also noted earlier that these two large elementary and secondary grant programs constitute approximately 68 percent of OE's funding efforts in Indian education.

#### *Recommendation*

That the Office of the Deputy Commisisoner for School Systems, in conjunction with the Indian education office, develop:

For Title I—a monitoring plan whereby the Office of Education can directly investigate some of the charges leveled against the use of Title I by the NAACP Legal Defense and Educational Fund study, "An Even Chance." In addition, the two offices should recommend to the Commissioner mutually agreed upon options for dealing with violations where these are discovered.

For P.L. 874—an analysis of the charges made by "An Even Chance" concerning the misuse of Impact Aid funds by districts, where these funds accrue to a district due to the enrollment of Indian children who live on Federal trust lands (reservations).

As indicated earlier, it may be inaccurate to talk about the "misuse" of these funds since the law does not stipulate how or for whom they should be used, other than to meet "operational expenses."

However, in addition to the assertions that Impact Aid funds not being used for Indian children, the report claims that these children are being discriminated against in a way that effectively denies their access to an equal educational opportunity.

The Task Force recommends, therefore, that the Deputy Commissioner for School Systems investigate the possible inclusion of Impact Aid funds in LEA programs that effectively deny Indian children an equal educational opportunity.

Should the investigation reveal such involvement, the Deputy Commissioner for School Systems and the Indian education office should recommend corrective action to the Commissioner.

*Justification*

Title I and P.L. 874 are OE's largest funding channels in Indian education. For this reason, it will be difficult for OE to undertake a clarification and expansion of its role in Indian education unless careful attention is focused on these two major grant programs.

*B. Issue 4—How should OE obtain guidance from Indian educators and representatives outside the Office of Education?*

*Discussion*

The Bill, S. 2482, which recently passed the Senate would legislate a National Board of Indian Education within the Office of Education which, in effect, would possess sole authority for the administration of that Indian Education Act.

Other pieces of proposed legislation have offered variations of this provision during the last two years. They all reflect the internal and widespread conviction of Indian people that they should guide the application of resources affecting them. The Commissioner of Education presently has no formal external mechanism for obtaining guidance on Indian policy.

Within OE at the present time, the Office of American Indian Affairs provides the agency with frequent counsel on Indian policy. However, this counsel is usually of a specific and ad hoc nature. Furthermore, OAIA is necessarily "in-house" and therefore cannot fully fill the need for constituent and "consumer" perspectives.

The Task Force believes that there are valid reasons why OE should develop a formal mechanism for obtaining policy and program guidance from Indian educators and representatives who are outside the Office of Education. These reasons include:

The limited degree to which OE as an agency and policy persons as individuals are aware of the major issues in Indian education. This is true in spite of the growing contributions that OE programs are making in this area.

The variety in terms of needs and specific issues that exist between different tribes.

As indicated above, the Office of American Indian Affairs is active in offering advice and counsel to various program offices that seek such assistance. Much of that counsel reflects extensive contact with Indian communities and Indian educators. Indeed the extent to which Indians from all over the country contact and personally visit the advocacy unit raises a question as to what further functional contribution could be made by formally establishing an external group to offer guidance. To a large extent, the Task Force's conviction that OE would gain significantly more "awareness" from such a step is based on conjecture and intuition. A valid argument can be made that Office of American Indian Affairs as presently constituted, and particularly if its mandate and resources are expanded, can adequately "sensitize" the Office of Education to Indian needs. However, two factors supplement the Task Force's intuition in this matter:

The OAIA is essentially tied to the delivery of OE resources which may necessarily limit the extent to which it can forcefully represent the views of recipients, even in the eyes of OE program officers.

Indian participation in decisions that affect Indians is not only a powerful symbolic factor in the Indian community, but a very concrete objective. For many Indians, the OAIA is a valuable element in Indian participation but as an internal part of OE, it does not fill that objective by itself.

The Task Force, therefore, does recommend that OE establish some formal mechanism for obtaining Indian guidance which supplements the present Office of American Indian Affairs.

In considering such a mechanism, the Task Force considered three options:

Invite the Education Subcommittee of the Vice President's National Council on Indian Opportunity to function directly as an advisory body to the Office of Education.

Establish a new Indian education advisory committee for the Office of Education.

Establish an on-going board within OE that would have policy setting authority.

*Recommendations*

The Task Force eliminated the last option from its consideration because it implied an excessive grant of authority in relation to OE decision-making. More specifically, the members believed that to grant such authority would effectively undermine the authority of the Commissioner. The recommendations, therefore, are:

That the Commissioner invite the Education Subcommittee of NCIO to function during a certain percentage of its monthly sessions as policy advisory group to OE on Indian education. With that invitation should go commitments:

To provide the customary expenses of those sessions.

To provide staff support to the Subcommittee for its advisory activities through OE's Indian education office staff.

That the Indian office will prepare specific agenda on major policy areas such as urban Indian education. The purpose of the agenda should be to focus rather than restrict the Subcommittee's deliberations.

That procedures will be developed which will make it possible for the Subcommittee to review, prior to final decisions, the project funding plans of at least one major discretionary program each year.

*Justification*

The Task Force offers the above recommendations for several reasons.

The Education Subcommittee of NCIO already exists and has a broad mandate from the President to review Indian education.

The option, therefore, would not add a separate OE advisory committee at a time when efforts are underway to avoid unnecessary proliferation of such committees.

The Task Force intentionally specified the conditions for the Subcommittee's involvement in OE decision-making on policy and programs that affect Indian education. There was a strong conviction that if OE acccepts the need for some additional mechanisms, such as the Subcommittee, for obtaining Indian guidance, the mechanism should not result in just another advisory committee. Rather, every attempt should be made to obtain maximum functional benefit from that mechanism.

### C. *Issue 5—How should OE address the movement for Indian control of schools?*

*Discussion*

The President's Message put great emphasis on increasing Indian control over educational activities affecting Indian people. That emphasis acknowledged a deep and long-standing objective of Indian people to determine their own affairs that is increasingly strong today.

Because of this deep feeling, and because the President's Message made a clear Federal commitment to support the attempt of Indian people to control their own schools, Indian committees and groups in increasing numbers are approaching the Bureau of Indian Affairs and the Office of Education seeking support of plans that call for Indian-run educational programs.

While pressure for Indian control mounts, the President's Message left the need for specific clarification as to what such notions as "self-determination," "participation," and "control" imply for Indian people in different educational settings.

The right of Indian people to have a greater voice in shaping the education of their children is now an almost universally accepted postulate of Federal policy. As noted above, it is a fundamental assertion of the President's July 1970 Message. It is also the central theme of the Special Senate Subcommittee Report of 1969, and an explicit objective of each piece of Indian legislation now before the Congress. The postulate is not trite for being universal. The President's Message estimated that in 1970 only 750 of our 50,000 Indian children were in school where BIA had contracted the school to Indian school boards. Dr. Havighurst, in his

1963 study of Indian education, found that only 6 percent of Indian children had Indian teachers. There is little question that whatever the balance of accomplishments and failures, Indian education for the last 100 years has been white education applied to Indian children.

The President's affirmation of Indian self-determination, in general, and Indian controlled schools, in particular, were themes that struck very responsive chords in the Indian community. But they also raise a number of sticky problems, particularly the notion of "Indian control of schools."

There are many ways we can look at control. In the fullest sense, Indian control denotes a fully autonomous Indian school board with complete authority over the educational program provided for Indian children. At the other end of the spectrum, are more moderated notions that boil down to Indian people having the same access access to educational decision-making as any other group in this country; i.e., the right to equal participation. In between, of course, are specific programs or projects designed to serve Indian children which are operated by Indian educators and parents.

While these distinctions are logical and even appropriate when applying the principle of Indian self-determination to different settings such as reservations, rural non-reservations, and urban, it is increasingly evident that most Indians—whatever their geographical location—define "Indian control" of school in the fullest sense. Whether it is the Wind River Reservation in Wyoming, the Rocky Boy public school district in Montana, or the Indian communities in Milwaukee and Seattle, Indians want to run "their" schools. To the extent that this full notion of "control" represents the Indians' understanding of "self-determination" as applied to all educational settings it raises a number of important questions.

Can the full notion of control, i.e., completely autonomous Indian school boards, be realized anywhere in the country? One could argue that no local school board, as authoritative as it might be, enjoys complete autonomy. Any normal school district "shares" authority to some extent with one or more other jurisdiction; e.g., the State, the county, the local political jurisdiction.

Even using the more moderate but still extensive notion of control as a "regular" local school board, is it realistic to apply that as an objective in all Indian settings? Specifically, is it reasonable to encourage urban Indian communities to aspire for their own separate school boards?

If the objective of an Indian controlled school board is applied predominantly to reservation areas seeking transfer of BIA schools to local control, what fate awaits those communities as they consider inclusion into the State public educational systems? Are they to be moved from BIA jurisdiction right into large, consolidated and predominantly white school districts?

Is the objective of Indian controlled public school districts compatible with the national policy of promoting racial integration in public schools?

The Task Force has not attempted to answer all these questions, many of which are complex and deserve focused attention and action that is beyond the scope of this group. However, we have prepared a draft statement of OE's understanding of "Indian control," with the conviction that some distinctions can be made which clarify the agency's position. Such clarifications would be helpful in indicating to the Indian community where OE stands in this very crucial but sometimes confusing issue.

### *Recommendations*

That the Indian education office and the Office of the Deputy Commissioner for School Systems take the lead in developing and articulating a policy position for OE in the area of "Indian control of schools." It is urged that the Office of General Counsel and the Office of Civil Rights be included in this effort at its earliest stages.

Attached is a draft statement that could be used as a basis for the development of this policy position (Appendix E).

That under the initiative of the same two offices, OE identify the resources it can offer Indian groups seeking greater self-determination, and develop an operational plan specifying the delivery of those resources.

## *D. Issue 6—How should OE address the educational problems of urban Indians?*

### *Discussion*

The question is worth serious attention because:

An estimated 38 percent of the American Indians now live in urban areas as compared to 27 percent in 1960, and there is every reason to believe that (with continuing migration and the high birth rate of young Indian parents in the cities—second only to Fillipinos) the proportion will increase.

Non-reservation Indians in general do not have the same visibility as reservation Indians. This is particularly true of urban Indians, especially those in non-western parts of the country. The data is fragmentary but the Havighurst report and some local studies tell us that urban Indian children manifest distressing educational symptoms. Some of these are similar to those experienced by their reservation counterparts. Others seem to be unique.

The state of OE's present knowledge concerning urban Indians could be summarized in the following way:

We know urban Indians exist and are increasing; and we know that they seem to have significant educational problems.

But we don't have extensive data as to where they are precisely.

Nor do we know much about why they manifest those educational symptoms. Even less do we know what to do about them.

The 1970 Census Special Report on American Indians ought to help locate the population more precisely. It is due in December or January.

Given our need to learn much more about urban Indians, and the very fundamental need to increase awareness of public school officials that school-age Indian children reside in their districts, there do not seem to be clear-cut major policy options at this time. The Task Force, therefore, recommends a series of steps aimed at enhancing our knowledge in this area.

### *Recommendations*

That the development of promising educational delivery systems to urban Indians be identified as a major sub-objective of a Commissioner's priority in Indian education.

That Title III and research resources be targeted to this question.

That the matter of promoting initial steps in "best practices" become an objective of OPPE in evaluating existing delivery activities and of OE leadership through "brokerage activities" with urban school leaders and urban Indian groups.

That preliminary plans be developed by OSC and the Deputy Commissioner for Development to use existing urban Indian centers as a focus for technical assistance in the development of improved educational delivery systems.

## V. CONCLUSION

To summarize briefly, the Indian Education Task Force reviewed OE's involvement in Indian education with a strong desire to identify improvements that were both meaningful and subject to swift implementation. The Task Force moved ahead in its work impressed by two basic findings: First, that OE is already allocating a significant level of expenditures in Indian education; but, secondly, much greater coordination and focus is needed in OE programs if the resources are to achieve their maximum impact.

The two major recommendations offered by the Task Force are aimed at clarifying and expanding OE's explicit role in Indian education and strengthening the policy and program management of OE's efforts. In short, they are intended to be a foundation. As such, neither they nor the other specific recommendations spell out the many specific strategies needed in this area. It is hoped, however, that they could provide a platform for such programmatic development.

Listed in order, the recommendations are:

That OE amend its present policy toward the disadvantaged to include a "special" Federal relationship to Indians, consistent with the President's July 1970 Message but limited by OE's other responsibilities and basic policy commitment to all the disadvantaged.

Indian education be identified as one of the Commissioner's OPS priorities, and that a new and strengthened Indian education office be established to coordinate internal OE policies toward Indians and joint OE/BIA efforts, with special emphasis on discretionary development resources.

That the Deputy Commissioner for School Systems develop a monitoring plan and schedule for Title I reviews of BIA and non-BIA projects serving significant concentrations of Indian children. And, furthermore, that the Deputy Commissioner for School Systems investigate the alleged misuses of P.L. 874 funds in districts with significant numbers of Indian children. If his investigation finds that equal educational opportunity is being denied Indian children where Federal impact aid funds are involved, the Deputy Commissioner for School Systems and the Indian office should recommend corrective action to the Commissioner.

That OE invite the Education Subcommittee of the Vice-President's National Council on Indian Opportunity to serve as an effective advisory body on OE policy and program decisions.

That the Deputy Commissioners, under the lead of the Deputy Commissioner for School Systems and the Office of American Indian Affairs, develop a policy statement clarifying OE's understanding of "Indian control" and its role in supporting it.

That OE give particular attention to the needs of urban Indians beginning with:

Improved information on learning problems; and

Leadership activities to develop channels of communication between urban Indian groups and urban public school officials.

The Task Force believes that its recommendations articulate a valid role for OE that could significantly enhance the impact of this agency's efforts in Indian education. They are offered as steps which: (a) make sense in terms of OE's policy commitments, (b) have the potential to enhance already significant efforts in OE, (c) could be implemented without exhaustive delay, and (d) manifest the agency's intention to take Indian education seriously.

The Task Force feels that, whether they are accepted or tabled, these recommendations are options which will have served one basic purpose if they help the Office of Education to focus its attention on its policy toward Indian education and work to an articulation of its position.

Finally, the Task Force would like to conclude with a deeply-felt exhortation concerning the dimensions of the goals which OE will set in Indian education in the coming years. We urge OE to acknowledge that, given the relatively small Indian population in this country, some goals can be set by the Federal Government for meeting over time all, or significant portions of, such basic needs as Indian educational personnel, educational facilities that are reasonably close to residence, and improved educational materials.

There is no guarantee that these factors will, by themselves, guarantee satisfactory educational achievement. Nor does the Task Force underestimate the complexity of delivering resources to a target population which, however small, is spread throughout the country.

Nevertheless, the Task Force has been impressed with the possibility that in an issue area characterized as tragically unchanging, we can aim at answering some basic needs rather than merely addressing them. The population is not vast. Planning capabilities exist. The resources are not unimaginable even in modest budget years. We, therefore, recommend that through needs assessments in basic program areas, and budgetary planning, OE espouse and promote the conviction that some very significant goals in Indian education can be accomplished in full.

## APPENDIX A

This appendix includes data items pertinent to the Indian Education Task Foret report. The items are compiled in the following order:

A1—Data on Socio-Economic States and Educational Status.
A2—Statement on Urban Indians.
A3—Map of Indian Population Distribution.
A4—Preliminary 1970 Census Counts of American Indians and Alaska Natives.

### A1

1. Data on Socio-Economic Status and Educational Status of American Indians.

(*a*) Up-to-date and accurate socio-economic data for American Indians is scarce to say the least. During 1972, the Census Bureau will be producing two reports that will help fill this gap: (1) a State by State summary of the socio-economic characteristics of different groups, including Indians, and (2) a special subject report on American Indians. The first item should be completed before the end of May 1972, but no specific delivery date in 1972 is available for the second report.

Until the Census reports are available, the estimates we have are either unsubstantiated, dated, or restricted to certain areas. Having said that, we might note, nevertheless, that there is a certain consistency in the rather dismal figures that may be significant in itself.

The following two tables have been derived from 1960 Census data.[1] As a result, they are dated. They have been developed because they offer the most recent data allowing comparative statements between minority population.

The tables allow the following generalizations:

As a total population, Indians are among the most disadvantaged groups in the country, according to indicators such as employment, income and schooling.

Indians show the greatest degree of disadvantage in comparison to whites. As of 1959 their plight as measured by some of these indicators, though critical, was not dramatically in excess of some other minority groups, particularly the Puerto Ricans. This should be qualified further by noting that:

> According to some indicators such as unemployment and median income, Indians had significantly more serious problems.
>
> In some States such as New Mexico and Arizona, the indicators for Indians were dramatically more severe relative to other groups, while in other States such as Texas and California, the Spanish-speaking were significantly behind the Indians in all indicators.

Rural Indians suffer the most serious disadvantage of all groups observed, and tend to account for the lower indicators manifested by the Indian population as a whole.

Urban Indians are better off, as measured by these indicators, than rural Indians, but they are in about the same predicament as the other urban minority groups observed, when compared to the white population.

In its 1971 study of the social and economic condition of urban Indians in Omaha, Nebraska, the American Indian Center in Omaha estimated that ". . . only 185 students were attending school out of a possible 1,752 who should be in school but are not." [1]

The Indian Center also confirmed data gathered by the Havighurst Study which indicates that Indian children in Federal schools (BIA) and Mission Schools show higher grade level attainment than their counterparts in regular public schools.[2]

1960 CENSUS DATA—NATIONAL

| Males 14 and over | Indian |  |  | Puerto Rican |  | Black |  |
|---|---|---|---|---|---|---|---|
|  | Total | Urban | Rural | Total | Urban | Total | Urban |
| Percent who have competed no years of school | 9 | 3 | 11 | 4 | 4 | 4 | 3 |
| Percent completed less than 7 years of school | 43 | 29 | 48 | 43 | 43 | 46 | 39 |
| Percent with 4 years of high school | 11 | 17 | 9 | 11 | 10 | 12 | 14 |
| Percent with 4 years of college | 1 | 3 | .......... | 1 | 1 | 2 | 2 |
| Famiy income in 1959 less than (percent): |  |  |  |  |  |  |  |
| $1,000 | 22 | 8 | 25 | 6 | (1) | 15 | 10 |
| $3,000 | 31 | 25 | 33 | 25 | (1) | 33 | 30 |
| $5,000 | 21 | 26 | 20 | 35 | (1) | 25 | 28 |
| Total less than $5,000 (percent) | 75 | 61 | 79 | 67 | (1) | 74 | 69 |
| Unemployed (percent) | 15 | 11 | 20 | 9 | 9 | 8 | 9 |
| Not in labor force (percent) | 40 | 30 | 47 | 20 | 20 | 27 | 25 |
| Males with total income less than $3,000 (percent) | 67 | 53 | 72 | 51 | 51 | 63 | 54 |
| Median income | $1, 792 | $2, 759 | $1, 493 | $2, 935 | $2, 974 | $2, 254 | $2, 759 |

[1] Not available.

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[1] *U.S. Census of Population*: 1960. PC(2)-1C. Subject Report, *Nonwhite Population by Race*; Supplementary Report, PC(S1)-55; *Population Characteristics of Selected Ethnic Groups in the Five Southwestern States.*

[1] The American Indian Center. *Which Way Tomorrow*, "A Social and Economic Study of the Urban Indian," Findings and Recommendations, 1971; p. 32. (Address: 2224 Leavenworth, Omaha, Nebr. 68102.)

[2] Herbert A. Auerbach. *The National Study of American Indian Education*, Series V. "The Status of American Indian Education." Table 2.

1960 CENSUS DATA FOR 5 SOUTHWESTERN STATES

| Males 14 and over | Spanish-speaking | White | Black | Indian |
|---|---|---|---|---|
| Unemployed (percent) | 6.1 | 3.3 | 6.7 | 8.8 |
| Not in labor force (percent) | 22.5 | 20.3 | 25.7 | [1] 43.4 |
| Other 65 and under (percent) | (6.0) | (3.9) | (7.6) | (19.6) |
| Total unemployed and under 65 not working (percent) | 12.1 | 7.2 | 14.3 | 28.4 |
| Income percent of males under $3,000 | 52.9 | 31.7 | 59.0 | 65.9 |
| Median income | $2,804 | $4,815 | $2,492 | $1,877 |
| No school years completed (percent): | 9.5 | .8 | 5.0 | 13.4 |
| Arizona | 11.5 | .7 | 4.9 | 22.9 |
| California | 8.3 | .9 | 1.8 | 4.4 |
| Colorado | 5.3 | .7 | .9 | 8.7 |
| New Mexico | 6.6 | .6 | 3.0 | 24.9 |
| Texas | 16.0 | 1.1 | 5.3 | 6.3 |
| Less than 7 years of school (percent): | 47.6 | 13.5 | 32.2 | 45.6 |
| Arizona | 51.9 | 12.6 | 40.7 | 62.3 |
| California | 37.4 | 11.0 | 24.9 | 27.3 |
| Colorado | 39.9 | 11.4 | 18.4 | 45.1 |
| New Mexico | 44.4 | 12.0 | 30.7 | 58.6 |
| Texas | 64.7 | 20.0 | 46.5 | 34.6 |
| 4 years of high school (percent): | 11.4 | 24.8 | 19.3 | 13.7 |
| Arizona | 9.7 | 24.5 | 13.0 | 6.4 |
| California | 14.9 | 25.5 | 20.6 | 19.1 |
| Colorado | 11.9 | 25.7 | 25.1 | 15.4 |
| New Mexico | 11.8 | 26.7 | 25.9 | 9.4 |
| Texas | 7.4 | 21.7 | 12.2 | 18.4 |
| 4 years of college (percent): | 2.2 | 11.2 | 3.2 | 1.7 |
| Arizona | 1.8 | 10.6 | 2.2 | .4 |
| California | 2.8 | 11.4 | 3.3 | 1.8 |
| Colorado | 2.3 | 11.5 | 5.5 | 1.9 |
| New Mexico | 2.7 | 12.3 | 2.5 | .9 |
| Texas | 1.6 | 10.0 | 2.5 | 3.5 |

[1] Includes a 14 percent enrolled in school which is 5 percent higher than any other group; but note that those under 65 not in the labor force but unengaged in education or institution is 20 percent, almost 3 times any other group.

The Havighurst Study also cited data on Indian dropout rates in the Northwest and Southwest regions of the United States which indicated:

Indian dropout rates of 43% in grades 8–12, compared with a 32% rate for all children in the United States.

Indian dropout rates of 35% in grades 9–12, compared with a 23% rate for all children in the United States.

Tables 2 and 3 from the Auerbach work are attached.

TABLE 2.—PERCENTAGE DISTRIBUTION OF INDIAN CHILDREN SHOWING RELATIONSHIP OF AGE OF CHILDREN TO GRADE IN SCHOOL FOR FEDERAL, SELECTED STATE PUBLIC, AND SELECTED MISSION SCHOOLS, 1967–68

| | Percentage of children reported | | | Total number of children reported |
|---|---|---|---|---|
| | At or below expected age | 1 yr above expected age | 2 yrs or more above expected age | |
| Federal schools: | | | | |
| Grades 1–8 | 14.1 | 44.5 | 41.4 | 34,613 |
| Grades 9–12 | 14.2 | 28.9 | 56.9 | 11,407 |
| Total | 14.1 | 40.6 | 45.2 | 46,020 |
| State public schools: | | | | |
| Grades 1–8 | 55.8 | 33.5 | 10.8 | 24,526 |
| Grades 9–12 | 51.2 | 34.8 | 14.0 | 7,404 |
| Total | 54.7 | 33.8 | 11.5 | 31,930 |
| Mission schools: | | | | |
| Grades 1–8 | 52.4 | 34.1 | 13.6 | 2,889 |
| Grades 9–12 | 37.8 | 37.2 | 25.0 | 871 |
| Total | 49.0 | 34.8 | 16.2 | 3,760 |

Source: Based on unpublished data provided by Bureau of Indian Affairs, selected state departments of education and mission organizations and schools to the National Study on American Indian Education, 1968. See appendix tables 11 and 12 for more detailed information on participating states and mission organizations.

TABLE 3.—COMPARATIVE SCHOOL DROPOUT RATES OF INDIAN CHILDREN IN 1963 STUDIES CONDUCTED BY 2 REGIONAL EDUCATIONAL LABORATORIES WITH 2 EARLIER STUDIES OF ALL U.S. SCHOOLCHILDREN

| Grades included | Percentage of children reported to have dropped out of school: Indian children, Northwest | Indian children, Southwest | All children, United States |
|---|---|---|---|
| Grades 8–12 | 48 | 39 | 32 |
| Grades 9–12 | 40 | 31 | 23 |

Source: (a) National data for grades 8–12 from John K. Norton, Changing Demands on Education and Their Fiscal Implications. (Washington, D.C.: National Committee for the Public Schools, 1963), 54; (b) National data for grades 9–12 from Sherrel E. Varner, School Dropouts (Washington, D.C.: Research Division, National Education Association, 1967, 8; (c) Data for Southwest from Charles S. Owens and Willard P. Rass, The American Indian High School Dropout in the Southwest (Albuquerque, N. Mex.: Southwestern Cooperative Educational Laboratory, January 1969), 7 and 15; (d) Data from the Northwest from Alphonse D. Selinger, The American Indain High School Dropout: The Magnitude of the Problem (Portland, Oreg.: Northwest Regional Educational Laboratory, September 1968), 137.

PER CAPITA PERSONAL INCOME BY SOURCE, INDIANS LIVING ON AND ADJACENT TO RESERVATIONS, 1970

| | Income | Percent distribution |
|---|---|---|
| Total cash income | $950 | 100 |
| Wage and salary income | 679 | 71 |
| Private sector | 430 | 45 |
| BIA-connected | 179 | 19 |
| Other private sector | 251 | 26 |
| Public sector | 249 | 26 |
| BIA employees | 86 | 9 |
| Other public sector | 163 | 17 |
| Property income | 90 | 9 |
| Transfer payments | 181 | 20 |
| Welfare | 109 | 12 |
| BIA (including child care) | 32 | 4 |
| Other | 77 | 8 |
| Other transfer payments [1] | 72 | 8 |

[1] Includes retirement pay, unemployment compensation, other.

Note: National average U.S. total population: $3,344.

Source: Bureau of Indian Affairs, Statistics Division [unpublished data].

LABOR FORCE AND EMPLOYMENT DATA, U.S. TOTAL AND RESERVATION INDIANS, MARCH 1971

| | U.S. total | Reservation Indians |
|---|---|---|
| Civilian labor force | 82,668,000 | 153,967 |
| Employment | 77,439,000 | 94,353 |
| Permanent [1] | | 65,702 |
| Temporary [2] | | 28,651 |
| Unemployment | 5,175,000 | 59,614 |
| Unemployment rate (percent) | 6.3 | 39.7 |

[1] 12-month employment.

[2] Less than 12-month employment.

Source: U.S. Data—U.S. Department of Labor, Bureau of Labor Statistics [unadjusted data]. Reservation Indians Data—Bureau of Indian Affairs, Statistics Division.

### LABOR FORCE AND EMPLOYMENT DATA, RESERVATION INDIANS WITHIN TOP 10 INDIAN-POPULATED STATES, MARCH 1975

| State | Labor force | Unemployment | Rate of unemployment (percent) |
|---|---|---|---|
| Oklahoma | 31,019 | 7,803 | 25 |
| Arizona | 35,825 | 12,641 | 35 |
| California [1] | 1,701 | 821 | 48 |
| New Mexico | 25,479 | 9,268 | 36 |
| North Carolina | 1,760 | 257 | 15 |
| Washington | 5,266 | 1,851 | 35 |
| South Dakota | 7,781 | 3,517 | 45 |
| New York [2] | | | |
| Montana | 6,123 | 2,469 | 40 |
| Minnesota | 3,556 | 1,508 | 42 |

[1] Numbers apply only to those in labor force survey.

[2] No Federal reservations. Comparable data not available.

Source: Bureau of Indian Affairs, Statistics Division.

## STATEMENT ON URBAN INDIAN EDUCATION*

Since the 1960's Indians have been migrating to urban areas in increasing numbers. This phenomenon is partially due to the relocation policy of the Bureau of Indian Affairs and the lack of employment opportunities on the reservations. There are presently approximately 303,600 Indians living in metropolitan areas, or 38% of the total Indian population.

A majority of Indian people moving to the cities are young and are just beginning to have children. The school-age population, therefore, is relatively small, perhaps around 16,000. In a decade, however, the school-age population could increase to 75,000 or more. During this time both parents and children will have developed critical educational problems caused by the adjustment process in adapting to city life.

Already Indian adolescents have shown special difficulty in the adaptation process. Drop-out rates increase dramatically during and after the 8th grade. Many of them become chronically truant at ages 14 and 15, and then are dropped from school rolls officially when they reach 16. Unless a program is established to bridge the gap between life on the reservation and in the city, with special attention given to Indian culture and ways, the drop-out phenomenon will perpetuate itself. In addition, special consideration should be given to skill training for available jobs with corresponding counselling by Indian community members so that the change-over from the unique economic system and notion of time on the reservation to the high-geared capitalistic society in the cities is made as painless as possible.

Another area of educational concern lies with kindergarten and elementary school students and their parents, especially their mothers. Unless parents become involved in the educational system in which their children are learning, they cannot understand enough to effect change in that system, nor can they reinforce at home what their children learn in school. The result is a growing gap between parent and child and/or a withdrawal of the child from the dominant society.

The educational components of over 60 urban Indian centers throughout the country are attempting to deal with these problems. Not enough demographic or socio-economic and educational data has been compiled to determine accurately the trends and issues relative to the Urban Indian situation. No studies to date have dealt comprehensively with the problem because accurate statistics are not yet available.

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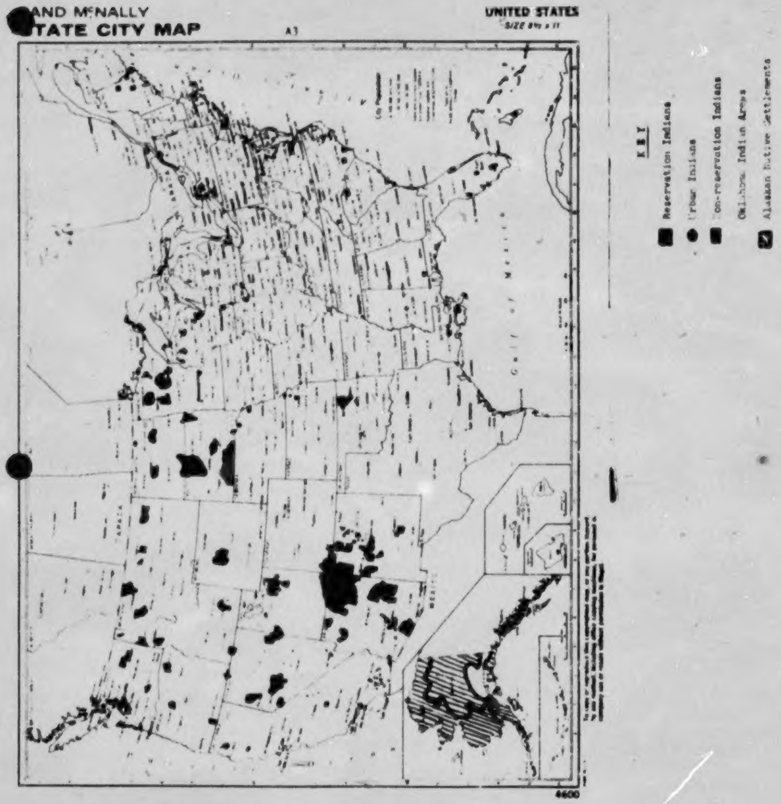
*Most of the information in this statement is taken from a summary report on the National Study of American Indian Education conducted by Robert J. Havighurst of the University of Chicago, December, 1970.


RAND McNALLY
STATE CITY MAP
A3
UNITED STATES
SIZE 8½ x 11
Gulf of Mexico
4600
KEY
■ Reservation Indians
● Urban Indians
■ Non-reservation Indians
Oklahoma Indian Areas
▨ Alaskan Native Settlements

## PRELIMINARY 1970 CENSUS COUNTS OF AMERICAN INDIANS AND ALASKA NATIVES

| State | 1970 1st count | 1960 |
|---|---|---|
| United States | [1] 827,091 | [2] 551,669 |
| Alabama | 2,514 | 1,276 |
| Alaska | [1] 51,528 | [2] 42,522 |
| Arizona | 95,812 | 83,887 |
| Arkansas | 2,041 | 580 |
| California | 91,018 | 39,014 |
| Colorado | 8,836 | 4,288 |
| Connecticut | 2,222 | 923 |
| Delaware | 656 | 597 |
| District of Columbia | 956 | 587 |
| Florida | 6,719 | 2,504 |
| Georgia | 2,455 | 749 |
| Hawaii | 1,126 | 472 |
| Idaho | 6,687 | 5,231 |
| Illinois | 11,413 | 4,704 |
| Indiana | 3,887 | 948 |
| Iowa | 2,992 | 1,708 |
| Kansas | 8,672 | 5,069 |
| Kentucky | 1,599 | 391 |
| Louisiana | 5,366 | 3,587 |
| Maine | 2,195 | 1,879 |
| Maryland | 4,258 | 1,538 |
| Massachusetts | 4,475 | 2,118 |
| Michigan | 16,854 | 9,701 |
| Minnesota | 23,128 | 15,496 |
| Mississippi | 4,113 | 3,119 |
| Missouri | 5,405 | 1,723 |
| Montana | 27,130 | 21,181 |
| Nebraska | 6,624 | 5,545 |
| Nevada | 7,933 | 6,681 |
| New Hampshire | 361 | 135 |
| New Jersey | 4,706 | 1,699 |
| New Mexico | 72,788 | 56,255 |
| New York | 28,330 | 16,491 |
| North Carolina | 43,487 | 38,129 |
| North Dakota | 14,369 | 11,736 |
| Ohio | 6,654 | 1,910 |
| Oklahoma | 97,731 | 64,689 |
| Oregon | 13,510 | 8,026 |
| Pennsylvania | 5,533 | 2,122 |
| Rhode Island | 1,390 | 932 |
| South Carolina | 2,241 | 1,098 |
| South Dakota | 32,365 | 25,794 |
| Tennessee | 2,376 | 638 |
| Texas | 18,132 | 5,750 |
| Utah | 11,273 | 6,961 |
| Vermont | 229 | 57 |
| Virginia | 4,904 | 2,155 |
| Washington | 33,386 | 21,076 |
| West Virginia | 808 | 181 |
| Wisconsin | 18,924 | 14,297 |
| Wyoming | 4,980 | 4,020 |

[1] Includes total of 35,252 Aleuts and Eskimos, partly estimated.
[2] Includes total of 28,078 Aleuts (5,755) and Eskimos (22,323).

Source: Unpublished data from the 1970 census supplied by the Bureau of the Census to the Bureau of Indian Affairs Statistics Division.

As the preliminary 1970 Census data indicates, the Indian population is indeed spread throughout the United States, a primary fact to keep in mind in developing specific OE strategies in Indian education.

At the same time, some observations can be made regarding concentrations of Indian population that may have some bearing on potential targeting of OE efforts.

The preliminary data indicates:

That 701,178 or 85% of the American Indians live in the 18 States that have 10,000 or more Indian residents;

That 596,705 or 72% of the American Indians live in the 11 States that have 20,000 or more Indian residents; and

That as shown below, three area groupings of States account for 617,576 or 75% of the American Indian population.

STATE GROUPINGS

| | Amount | Percent |
|---|---|---|
| Arizona | 95,812 | |
| New Mexico | 72,788 | |
| Colorado | 8,836 | |
| Nevada | 7,933 | |
| California | 91,018 | |
| Subtotal | 276,387 | 33 |
| Alaska | 51,528 | |
| Washington | 33,886 | |
| Oregon | 13,510 | |
| Montana | 27,130 | |
| Subtotal | 125,554 | 15 |
| North Dakota | 43,487 | |
| South Dakota | 32,365 | |
| Oklahoma | 97,731 | |
| Minnesota | 23,128 | |
| Wisconsin | 18,924 | |
| Subtotal | 215,635 | 26 |
| Total | 617,576 | 74 |

As a reminder that the Indian population is, indeed, national, see the estimates for Indians on the East Coast.

*Estimates of American Indian populations in eastern States*

| | |
|---|---|
| Maine | 2,195 |
| New Hampshire | 361 |
| Vermont | 229 |
| Massachusetts | 4,475 |
| Rhode Island | 1,390 |
| Connecticut | 2,222 |
| New York | 28,330 |
| New Jersey | 4,706 |
| Pennsylvania | 5,533 |
| Delaware | 656 |
| Maryland | 4,258 |
| West Virginia | 808 |
| Virginia | 4,904 |
| North Carolina | 43,487 |
| South Carolina | 2,241 |
| Georgia | 2,455 |
| Alabama | 2,514 |
| Louisiana | 5,366 |
| Kentucky | 1,599 |
| Tennessee | 2,376 |
| District of Columbia | 956 |
| Mississippi | 4,113 |
| Florida | 6,719 |
| Total | 131,893 |

Note.—16% of U.S. Indian population, according to preliminary 1970 U.S. Census figures.

## APPENDIX B

### SCHOOL ENROLLMENT DATA AND TEACHER DATA

This Appendix offers the most up-to-date data available to the Task Force on Indian elementary and secondary enrollments. The reader will note the differences between the public school figure of 177,500 cited in the NCES bulletin (B1) and the figure of 197,245 recently offered by the OCR for fall 1970 (B2, p. xxxvii). The text of the report is using the new OCR data.

The table on page 3 of the text utilizes the following data:

Public Schools—197,245 (taken from OCR "universe" estimates for fall 1970)

BIA Schools 52,591 (quoted, by Mrs. Alice Hillbrand, BIA, for June 1970). Figure includes:

| | |
|---|---|
| Elementary | 39, 014 |
| Secondary | 12, 201 |
| Post-High | 1, 376 |

Private Schools—This total is an estimate arrived at by taking 7.4 percent of the known BIA and public school enrollment combined. The 7.4 percentage is used because it is consistent with the percentage that private school enrollment constituted relative to public school and BIA enrollments combined in fall 1968.

BULLETIN

Number 9
May 28, 1971

Advance Statistics for Management

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE/Office of Education

## THE AMERICAN INDIAN IN SCHOOL
Answers to Questions---

### ELEMENTARY-SECONDARY EDUCATION

- How many Indian children are in school? Public? Private? BIA?
- Where are the public school Indians enrolled?
- What is the concentration of Indian enrollment in each State?
- How do patterns of "racial isolation" differ for Indian and Black children?
- To what extent are public school Indians racially isolated?
- What is the concentration of Indian enrollment in the large cities?
- How well do Indians score on achievement tests?
- Where are the Bureau of Indian Affairs students?

### HIGHER EDUCATION

- How many Indians are in colleges? Public? Private?
- Where do the Indians go to college?
- What is the concentration of Indian enrollment in the States?

For further information call:
Albert Munse .... 963-5310
Robert Davies ... 963-6670
Carol Hobson .... 963-6131

- New data of unusual interest
- Special analyses of new developments
- Statistical highlights on educational issues

## CAUTIONS IN INTERPRETING THE DATA

Estimates of the number of Indian pupils, available from the Bureau of Indian Affairs and the Office for Civil Rights, DHEW, differ because of varying coverage of the surveys and different intended uses for the data.

Program statistics compiled by the Bureau of Indian Affairs recognized a local public school student population of 120,000 in Fiscal Year 1969, while the Office for Civil Rights, DHEW, monitoring compliance under Title VI of the Civil Rights Act of 1964, indicated in their fall 1968 national survey a total Indian local public school enrollment which exceeded the BIA figure by 57,000.

According to the Bureau of Indian Affairs, an Indian student has one-fourth or more degree of Indian blood or is a native of Alaska (Indian, Eskimo, and Aleut). However, in the Cherokee Agency, children of less than one-fourth degree of Indian blood enrolled in the tribe may attend Federal schools and be included in the count of Indian students.

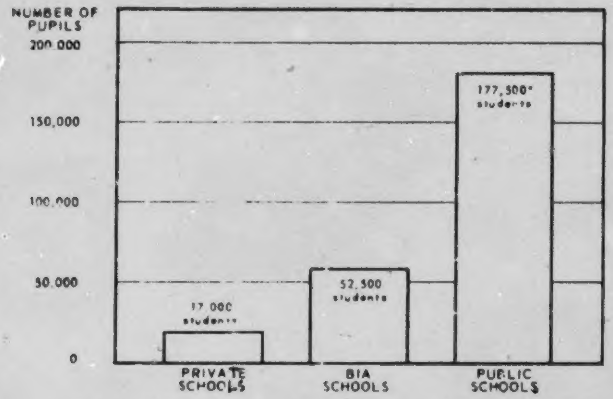
In contrast, the Office for Civil Rights includes persons considered by themselves, by the school, or by the community to be of American Indian origin.

## ELEMENTARY-SECONDARY EDUCATION

**How many Indians are in elementary-secondary schools?**

**247,000 (Fall 1968)**

**What kinds of schools enrolled these students?**



*Includes 57,000 students identified as Indians by the Office for Civil Rights, Department of Health, Education, and Welfare, but not included in Bureau of Indian Affairs statistics.

**Sources of Data:**

**(1) Dept. of H.E.W. News Release. January 4, 1970.**

**(2) Fiscal Year 1969 Statistics Concerning Indian Education, Bureau of Indian Affairs, Dept. of the Interior.**

**(3) Equality of Educational Opportunity, Office of Education, Dept. of H.E.W.**

**(4) Undergraduate enrollment by Ethnic Group in Federally Funded Institutions, Fall 1968, Office for Civil Rights, Dept. of H.E.W.**

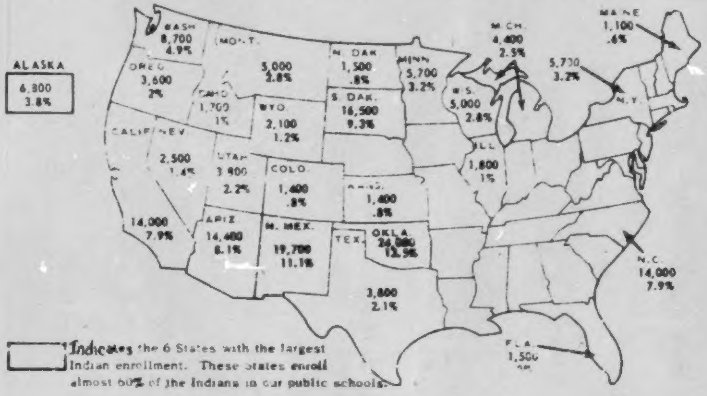
**(5) Unpublished data, Fall 1969, Office for Civil Rights, Dept. H.E.W.**

## WHERE ARE THE PUBLIC SCHOOL INDIANS ENROLLED?

Indians enrolled in public elementary-secondary schools, by State, and percent of total Indian enrollment in the public schools: Fall 1968

U.S. : 177,500= 100%

(Data are shown only for States that enrolled 1,000 or more Indians)

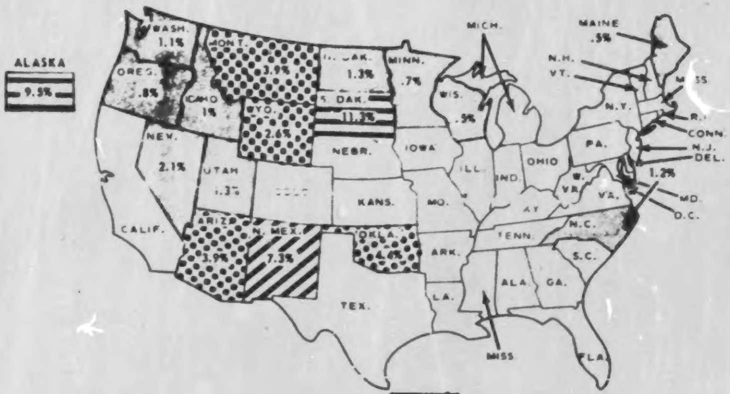

ALASKA
6,300
3.8%
WASH
8,700
4.9%
MONT.
5,000
2.8%
N. DAK
1,500
.8%
MINN
5,700
3.2%
M.CH.
4,400
2.5%
MAINE
1,100
.6%
5,700
3.2%
N.Y.
OREG
3,600
2%
IDAHO
1,700
1%
WYO.
2,100
1.2%
S. DAK.
16,500
9.3%
WIS.
5,000
2.8%
CALIF
NEV.
2,500
1.4%
UTAH
3,900
2.2%
COLO.
1,400
.8%
KANS.
1,400
.8%
ILL
1,800
1%
14,000
7.9%
ARIZ
14,400
8.1%
N. MEX.
19,700
11.1%
TEX.
OKLA.
24,000
13.5%
3,800
2.1%
N.C.
14,000
7.9%
FLA.
1,500
Indicates the 6 States with the largest Indian enrollment. These states enroll almost 60% of the Indians in our public schools.

Source: Dept. of H.E.W. News
Release, January 4, 1970

## WHAT IS THE CONCENTRATION OF INDIAN ENROLLMENT IN EACH STATE?

Indian public school enrollment as a percent of total State public school enrollment: Fall 1968

Percent for the Nation: 0.4%


ALASKA
9.5%
WASH.
1.1%
OREG.
.8%
IDAHO
1%
MONT.
3.9%
N. DAK.
1.3%
MINN.
.7%
S. DAK.
11.3%
WYO.
2.6%
NEV.
2.1%
UTAH
1.3%
COLO.
NEBR.
IOWA
WIS.
.5%
MICH.
MAINE
.5%
N.H.
VT.
MASS.
N.Y.
R.I.
CONN.
N.J.
DEL.
PA.
OHIO
IND.
ILL.
KANS.
MO.
KY.
W. VA.
VA.
1.2%
MD.
D.C.
CALIF.
ARIZ.
3.9%
N. MEX.
7.3%
OKLA.
4.6%
ARK.
TENN.
N.C.
S.C.
ALA.
GA.
LA.
TEX.
MISS.
FLA.

- ▤ 7.5% or more - 2 States
- ▨ 5.0 - 7.4% - 1 State
- ▩ 2.5 - 4.9% - 4 States
- ▒ 0.4 - 2.4% - 10 States
- ☐ Less than 0.4% - 33 States

Indian enrollment amounted to 5% or more of total State public school enrollment in only three States:

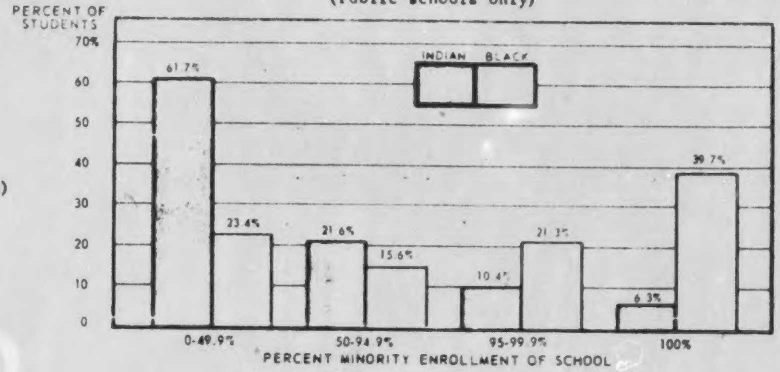
1. South Dakota
2. Alaska
3. New Mexico

Source: Dept. of H.E.W. News Release, January 4, 1970

## HOW DO PATTERNS OF RACIAL ISOLATION DIFFER FOR INDIAN AND BLACK STUDENTS?

(Public schools only)

(Fall 1968)



Fall 1968

1. Over 60% of the public school Indians were in schools where minority enrollment was less than half of total enrollment; only 23% of the Black children were in these schools.

2. Only 17% of the Indian children were in schools where minority enrollment was 95% or more of total enrollment; 61% of the Black students were in these schools.

3. If Indians enrolled in Bureau of Indian Affairs and public schools are jointly considered, then:

   47% of the Indians were in 0.49.9% minority schools
   17% of the Indians were in 50-94.9% minority schools
   8% of the Indians were in 95-99.9% minority schools
   28% of the Indians were in 100% minority schools

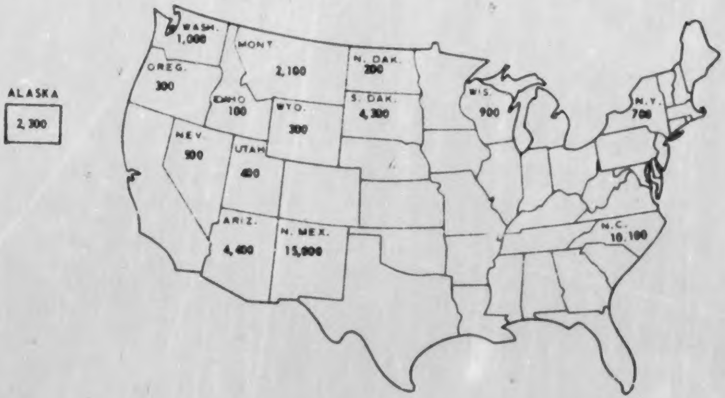
4. The Nation's 100 largest school districts enrolled only 10% of the Indian students in the public schools but 30% of the Black students.

Source: Dept. of H.E.W. News Release, January 4, 1970

## TO WHAT EXTENT ARE INDIAN CHILDREN IN OUR PUBLIC SCHOOLS RACIALLY ISOLATED?

Number of Indian children enrolled in public elementary-secondary schools where half or more of the students were of a minority race: Fall 1969

(Students enrolled in BIA schools are not included)


ALASKA
2,300
WASH.
1,000
OREG.
300
MONT.
2,100
IDAHO
100
WYO.
300
NEV.
900
UTAH
400
ARIZ.
4,400
N. MEX.
15,900
N. DAK.
200
S. DAK.
4,300
WIS.
900
N.Y.
700
N.C.
10,100

Comparison of "racial isolation" enrollment with total Indian enrollment in the public schools of a State indicates:

1. More than 70% of the public school Indians in New Mexico and North Carolina were in schools where the majority of students were of a minority race.
2. 25 to 50% of the Indians in Montana, Alaska, Arizona, and South Dakota public schools were in schools where the majority of students were of a minority race.

Source: Unpublished data, Fall 1969, Office for Civil Rights, Dept. of H.E.W.

## WHAT IS THE CONCENTRATION OF INDIAN ENROLLMENT IN THE LARGE CITIES?

1. In Fall 1968 about 15% of the public school Indians were in the large cities (100,000 or more population) and another 15 to 20% were in metropolitan areas surrounding these cities. The following cities accounted for about half the large-city Indian enrollment:

| CITY | NUMBER OF INDIANS ENROLLED | PERCENT OF TOTAL CITY ENROLLMENT |
|---|---|---|
| Tulsa, Oklahoma | 3,196 | 4.0% |
| Albuquerque, New Mexico | 1,704 | 2.1% |
| New York City, New York | 1,526 | .1% |
| Minneapolis, Minnesota | 1,490 | 2.1% |
| Los Angeles, California | 1,204 | .2% |
| Chicago, Illinois | 826 | .1% |
| Phoenix, Arizona (Elementary and Union High Systems) | 619 | 1.6% |
| Seattle, Washington | 603 | .6% |
| Milwaukee, Wisconsin | 501 | .4% |

2. Only 42 school districts including the 9 large cities above enrolled as many as 500 Indian children.

Source: Tabulated from the Directory of Public Elementary and Secondary Schools in Selected Districts, Fall 1968, Office for Civil Rights, Dept. of H.E.W.

## HOW WELL DO INDIAN STUDENTS SCORE ON ACHIEVEMENT TESTS?

Estimated median achievement test scores for 1st- and 12th-grade pupils, by racial and ethnic group: United States, fall 1965

| | Racial or ethnic group | | | | | |
|---|---|---|---|---|---|---|
| | Puerto Ricans | Indian Americans | Mexican Americans | Oriental Americans | Negro | White |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1st Grade | | | | | | |
| Nonverbal | 45.8 | 53.0 | 50.1 | 56.6 | 43.4 | 54.1 |
| Verbal | 44.9 | 47.8 | 46.5 | 51.6 | 45.4 | 53.2 |
| 12th Grade | | | | | | |
| Nonverbal | 43.3 | 47.1 | 45.0 | 51.6 | 40.9 | 52.0 |
| Verbal | 43.1 | 43.7 | 43.8 | 49.6 | 40.9 | 52.1 |
| Reading | 42.6 | 44.3 | 44.2 | 48.8 | 42.2 | 51.9 |
| Mathematics | 43.7 | 45.9 | 45.5 | 51.3 | 41.8 | 51.8 |
| General information | 41.7 | 44.7 | 43.3 | 49.0 | 40.6 | 52.2 |
| Average of the 5 tests | 43.[illegible] | 45.[illegible] | 44.4 | 50.1 | 41.1 | 52.0 |

NOTE.—This table presents the results of standard achievement tests of certain intellectual skills such as reading, writing, calculating, and problem solving. The tests were designed to measure the skills which are the most important in our society for getting a good job and moving up to a better one, and for full participation in an increasingly technical world.

The scores in each test were standardized so that the average over the national sample equaled 50 and the standard deviation equaled 10. This means that for all pupils in the Nation, about 16 percent would score below 40 and about 16 percent would score above 60.

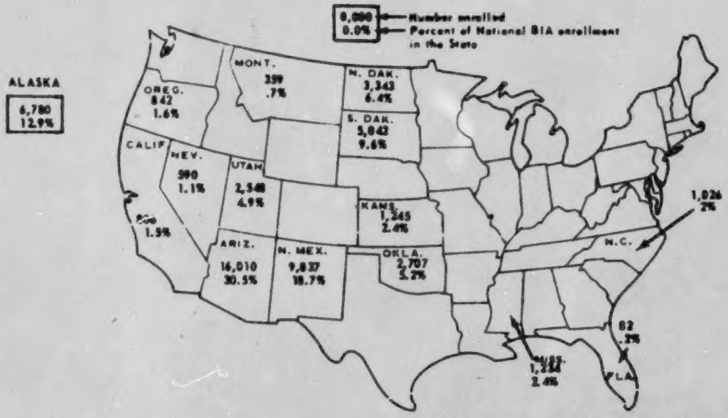
SOURCE: U.S. Department of Health, Education, and Welfare, Office of Education, Commissioner's report on *Equality of Educational Opportunity*, July 2, 1966.

Achievement test scores for Indians in grades 1 and 12 were lower than scores for Whites and Oriental Americans but were higher than scores for Mexican Americans, Puerto Ricans, and Negroes.

## IN WHICH STATES ARE THE BIA STUDENTS?

Indian enrollment in Federal Indian Schools, by State, and percent of total in each State: 1968-69

Total 52,471 = 100%


0,000 Number enrolled
0.0% Percent of National BIA enrollment in the State
ALASKA
6,780
12.9%
OREG.
842
1.6%
MONT.
359
.7%
N. DAK.
3,343
6.4%
S. DAK.
5,042
9.6%
CALIF.
806
1.5%
NEV.
590
1.1%
UTAH
2,548
4.9%
ARIZ.
16,010
30.5%
N. MEX.
9,837
18.7%
KANS.
1,245
2.4%
OKLA.
2,707
5.2%
N.C.
1,026
2%
MISS.
1,234
2.4%
FLA.
82
.2%

1. Nearly 80% of the Indians in BIA schools were in five States:

   1. Arizona
   2. New Mexico
   3. Alaska
   4. South Dakota
   5. North Dakota

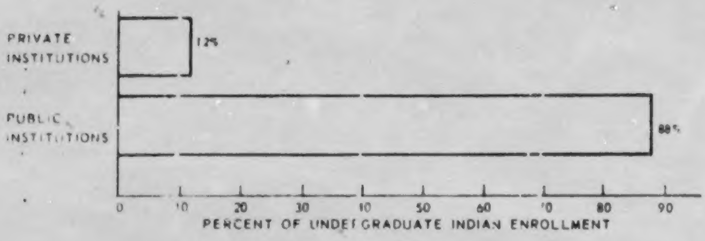
2. Arizona and New Mexico accounted for about half of the BIA enrollment.

Source: Fiscal Year 1969 Statistics Concerning Indian Education, Bureau of Indian Affairs, Dept. of the Interior.

## Undergraduate
## HIGHER EDUCATION

The data which follow are based on information in the Office for Civil Rights publication, Undergraduate Enrollment by Ethnic Group in Federally Funded Institutions, Fall 1968, for 30,000 undergraduate Indians. This is a larger number than estimated by the Bureau of Indian Affairs.

In what kinds of schools were undergraduate Indians enrolled?



The Bureau of Indian Affairs reports ---

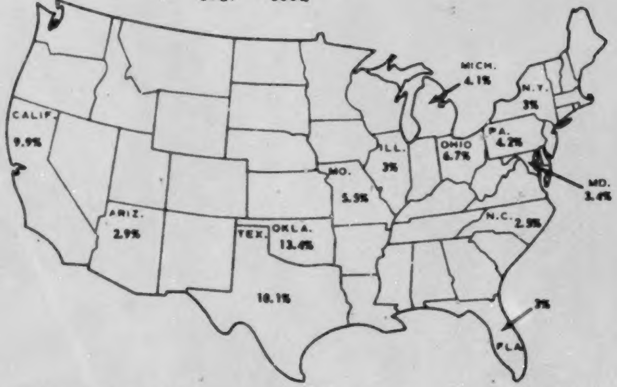
The Bureau of Indian Affairs provides financial assistance for 8,500 Indian college students each year.

The Bureau of Indian Affairs also provides financial assistance annually for 5,500 Indians enrolled in vocational training institutions (not included as higher education).

## WHERE DO THE INDIANS GO TO COLLEGE?

Percent of total Indian undergraduate enrollment in institutions of higher education in each State: Fall 1968

U.S. = 100%


CALIF.
9.9%
ARIZ.
2.9%
TEX.
10.1%
OKLA.
13.4%
MO.
5.5%
ILL.
3%
MICH.
4.1%
OHIO
6.7%
PA.
4.2%
N.Y.
3%
MD.
3.4%
N.C.
2.5%
FLA.
3%

Nearly three-fourths of the Indians were enrolled in 13 States.

About half of the Indian students in these 13 States were attending school in:

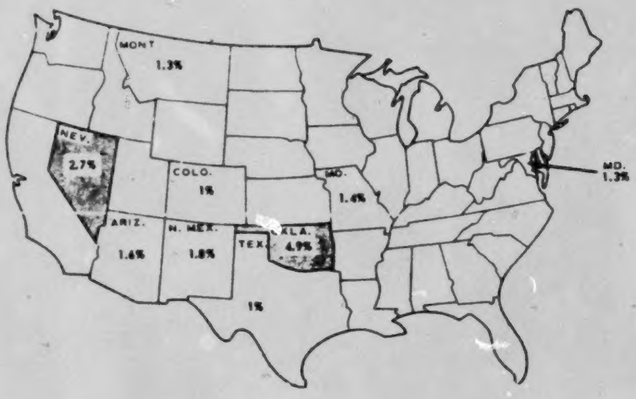
1. Oklahoma
2. Texas
3. California

Source: Tabulated from Undergraduate Enrollment by Ethnic Group in Federally Funded Institutions, Fall 1968, Office for Civil Rights, Dept. of H.E.W.

WHAT IS THE CONCENTRATION OF INDIAN COLLEGE ENROLLMENT IN THE STATES?

Percent of total State undergraduate enrollment that was Indian: Fall 1968

(Only States with 1.0% or more shown)


MONT
1.3%
NEV.
2.7%
COLO.
1%
ARIZ.
1.6%
N. MEX.
1.8%
TEX.
1%
OKLA.
4.9%
MO.
1.6%
MD.
1.3%

The largest impact of Indians in college was in Oklahoma and Nevada. Only seven States had as much as 1% but less than 2%.

Source: Tabulated from Undergraduate Enrollment by Ethnic Group in Federally Funded Institutions, Fall 1968, Office for Civil Rights, Dept. of H.E.W.

## APPENDIX B2

This Appendix includes racial/ethnic data from the Office of Civil Rights, HEW, for fall 1970.

Table II
Student Enrollment, U.S. and State Totals, for Racial/Ethnic Groups (universe projections)

Table III
Student Enrollment by State and U.S. Horizontal Percents Based on State Racial/Ethnic Totals (universe projections)

Table IV
Student Enrollment by State and U.S. Vertical Percents Based on U.S. Racial/Ethnic Totals (universe projections)

Table VI
Full-time Classroom Teachers Assigned by Only One School, by State and U.S. (universe projections)

Table VII
Full-time Classroom Teachers Assigned to Only One School, Horizontal Percents Based on State Racial/Ethnic Totals (universe projections)

Table VIII
Full-time Classroom Teachers Assigned to Only One School, by State and U.S., Vertical Percents Based on U.S. Racial/Ethnic Totals

TABLE [illegible]

[illegible]
RACIAL/ETHNIC GROUPS, BY STATE AND U.S.
( [illegible] )

| STATE | SYSTEMS | SCHOOLS | AMER. IND. | NEGRO | ORIENTAL | SPAN. AMER. | MIN. TOTAL | NON-MIN. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| ALABAMA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| ALASKA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| ARIZONA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| ARKANSAS | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| CALIFORNIA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| COLORADO | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| CONNECTICUT | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| DELAWARE | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| DISTR. OF COLUMBIA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| FLORIDA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| GEORGIA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| IDAHO | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| ILLINOIS | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| INDIANA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| IOWA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| KANSAS | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| KENTUCKY | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| LOUISIANA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| Maine | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| MARYLAND | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| MASSACHUSETTS | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| MICHIGAN | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| MINNESOTA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| MISSISSIPPI | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| MISSOURI | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| MONTANA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NEBRASKA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NEVADA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NEW HAMPSHIRE | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NEW JERSEY | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NEW MEXICO | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NEW YORK | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NORTH CAROLINA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| NORTH DAKOTA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| OHIO | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| OKLAHOMA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| OREGON | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| PENNSYLVANIA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| RHODE ISLAND | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| SOUTH CAROLINA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| SOUTH DAKOTA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| TENNESSEE | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| TEXAS | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| UTAH | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| VERMONT | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| VIRGINIA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| WASHINGTON | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| WEST VIRGINIA | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| WISCONSIN | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| WYOMING | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| U.S. TOTAL | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |

### TABLE III

STUDENT ENROLLMENT - FALL 1970
RACIAL/ETHNIC GROUPS, BY STATE AND U.S.
HORIZONTAL PERCENTS BASED ON STATE RACIAL/ETHNIC TOTALS
( UNIVERSE PROJECTIONS )

| STATE | SYSTEMS | SCHOOLS | AMER. IND. | NEGRO | ORIENTAL | SPAN. AMER. | MIN. TOTAL | NON.-MIN. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| ALABAMA | | | 0.0 | 34.3 | 0.0 | 0.0 | 34.3 | 65.7 | 100.0 |
| ALASKA | | | 12.9 | 2.7 | 0.6 | 1.3 | 17.5 | 82.5 | 100.0 |
| ARIZONA | | | 4.5 | 3.9 | 0.3 | 19.9 | 28.6 | 71.4 | 100.0 |
| ARKANSAS | | | 0.1 | 24.8 | 0.1 | 0.1 | 25.1 | 74.9 | 100.0 |
| CALIFORNIA | | | 0.4 | 9.1 | 2.3 | 15.5 | 27.3 | 72.7 | 100.0 |
| COLORADO | | | 0.2 | 3.5 | 0.4 | 14.4 | 18.5 | 81.5 | 100.0 |
| CONNECTICUT | | | 0.1 | 8.8 | 0.3 | 3.0 | 12.2 | 87.8 | 100.0 |
| DELAWARE | | | 0.1 | 20.5 | 0.2 | 0.5 | 21.3 | 78.7 | 100.0 |
| DISTR. OF COLUMBIA | | | 0.0 | 94.6 | 0.4 | 0.5 | 95.5 | 4.5 | 100.0 |
| FLORIDA | | | 0.1 | 21.1 | 0.2 | 6.5 | 27.9 | 72.1 | 100.0 |
| GEORGIA | | | 0.0 | 33.3 | 0.1 | 0.1 | 33.5 | 66.5 | 100.0 |
| IDAHO | | | 1.3 | 0.2 | 0.3 | 2.6 | 4.4 | 95.6 | 100.0 |
| ILLINOIS | | | 0.1 | 18.2 | 0.3 | 3.4 | 22.0 | 78.0 | 100.0 |
| INDIANA | | | 0.1 | 9.0 | 0.1 | 1.2 | 10.3 | 89.7 | 100.0 |
| IOWA | | | 0.1 | 1.6 | 0.2 | 0.4 | 2.2 | 97.8 | 100.0 |
| KANSAS | | | 0.3 | 6.5 | 0.2 | 1.8 | 8.8 | 91.2 | 100.0 |
| KENTUCKY | | | 0.0 | 9.3 | 0.0 | 0.0 | 9.3 | 90.7 | 100.0 |
| LOUISIANA | | | 0.0 | 40.4 | 0.0 | 0.6 | 41.0 | 59.0 | 100.0 |
| MAINE | | | 0.2 | 0.3 | 0.1 | 0.1 | 0.8 | 99.2 | 100.0 |
| MARYLAND | | | 0.0 | 24.2 | 0.3 | 0.4 | 24.9 | 75.1 | 100.0 |
| MASSACHUSETTS | | | 0.0 | 4.5 | 0.4 | 1.1 | 6.0 | 94.0 | 100.0 |
| MICHIGAN | | | 0.2 | 13.6 | 0.2 | 1.3 | 15.1 | 84.9 | 100.0 |
| MINNESOTA | | | 0.9 | 1.1 | 0.2 | 0.4 | 2.6 | 97.4 | 100.0 |
| MISSISSIPPI | | | 0.0 | 50.8 | 0.1 | 0.1 | 51.0 | 49.0 | 100.0 |
| MISSOURI | | | 0.1 | 14.6 | 0.2 | 0.2 | 15.1 | 84.9 | 100.0 |
| MONTANA | | | 5.6 | 0.3 | 0.3 | 1.1 | 7.3 | 92.7 | 100.0 |
| NEBRASKA | | | 0.8 | 4.6 | 0.2 | 1.3 | 7.0 | 93.0 | 100.0 |
| NEVADA | | | 2.2 | 8.2 | 0.5 | 3.3 | 14.3 | 85.7 | 100.0 |
| NEW HAMPSHIRE | | | 0.0 | 0.4 | 0.2 | 0.1 | 0.8 | 99.2 | 100.0 |
| NEW JERSEY | | | 0.0 | 15.6 | 0.3 | 4.1 | 20.0 | 80.0 | 100.0 |
| NEW MEXICO | | | 6.0 | 2.2 | 0.2 | 38.9 | 48.1 | 51.9 | 100.0 |
| NEW YORK | | | 0.2 | 15.9 | 0.6 | 9.0 | 25.3 | 74.7 | 100.0 |
| NORTH CAROLINA | | | 1.2 | 29.4 | 0.1 | 0.0 | 30.7 | 69.3 | 100.0 |
| NORTH DAKOTA | | | 1.0 | 0.5 | 0.2 | 0.3 | 2.0 | 98.0 | 100.0 |
| OHIO | | | 0.0 | 12.1 | 0.1 | 0.7 | 13.0 | 87.0 | 100.0 |
| OKLAHOMA | | | 5.2 | 9.6 | 0.2 | 1.0 | 16.0 | 84.0 | 100.0 |
| OREGON | | | 0.8 | 1.7 | 0.7 | 1.2 | 4.5 | 95.5 | 100.0 |
| PENNSYLVANIA | | | 0.0 | 11.8 | 0.1 | 0.7 | 12.6 | 87.4 | 100.0 |
| RHODE ISLAND | | | 0.1 | 4.2 | 0.3 | 0.4 | 4.9 | 95.1 | 100.0 |
| SOUTH CAROLINA | | | 0.0 | 41.1 | 0.1 | 0.1 | 41.2 | 58.8 | 100.0 |
| SOUTH DAKOTA | | | 5.0 | 0.3 | 0.1 | 0.2 | 5.7 | 94.3 | 100.0 |
| TENNESSEE | | | 0.0 | 21.0 | 0.1 | 0.1 | 21.2 | 78.8 | 100.0 |
| TEXAS | | | 0.1 | 15.4 | 0.2 | 21.4 | 37.1 | 62.9 | 100.0 |
| UTAH | | | 1.4 | 0.5 | 0.5 | 3.8 | 6.2 | 93.8 | 100.0 |
| VERMONT | | | 0.0 | 0.1 | 0.1 | 0.1 | 0.4 | 99.6 | 100.0 |
| VIRGINIA | | | 0.1 | 24.1 | 0.4 | 0.3 | 24.7 | 75.3 | 100.0 |
| WASHINGTON | | | 1.3 | 2.6 | 1.1 | 2.0 | 7.0 | 93.0 | 100.0 |
| WEST VIRGINIA | | | 0.0 | 4.7 | 0.1 | 0.1 | 4.9 | 95.1 | 100.0 |
| WISCONSIN | | | 0.7 | 4.2 | 0.1 | 1.0 | 6.0 | 94.0 | 100.0 |
| WYOMING | | | 1.3 | 1.1 | 0.3 | 6.4 | 8.9 | 91.1 | 100.0 |
| U.S. TOTAL | | | 0.4 | 14.9 | 0.5 | 5.1 | 20.9 | 79.1 | 100.0 |

TABLE 19

STUDENT ENROLLMENT - FALL 1970
RACIAL/ETHNIC GROUPS, BY STATE AND U.S.
VERTICAL PERCENTS BASED ON U.S. RACIAL/ETHNIC TOTALS
( UNIVERSE PROJECTIONS )

| STATE | SYSTEMS | SCHOOLS | AMER. IND. | NEGRO | ORIENTAL | SPAN. AMER. | MIN. TOTAL | NON-MIN. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| ALABAMA | | | 0.0 | 4.0 | 0.1 | 0.0 | 2.4 | 1.4 | 1.7 |
| ALASKA | | | 3.1 | 0.0 | 0.3 | 0.0 | 0.1 | 0.2 | 0.2 |
| ARIZONA | | | 6.9 | 0.3 | 1.0 | 3.0 | 1.3 | 0.9 | 1.0 |
| ARKANSAS | | | 0.3 | 1.6 | 0.2 | 0.0 | 1.2 | 0.9 | 1.0 |
| CALIFORNIA | | | 8.5 | 6.2 | 30.2 | 31.1 | 13.1 | 9.3 | 10.2 |
| COLORADO | | | 0.6 | 0.3 | 1.9 | 3.4 | 1.1 | 1.2 | 1.2 |
| CONNECTICUT | | | 0.2 | 0.9 | 0.6 | 0.0 | 0.9 | 1.6 | 1.5 |
| DELAWARE | | | 0.0 | 0.4 | 0.1 | 0.0 | 0.3 | 0.3 | 0.3 |
| DISTR. OF COLUMBIA | | | 0.0 | 3.0 | 0.3 | 0.0 | 1.3 | 0.0 | 0.3 |
| FLORIDA | | | 0.7 | 4.9 | 0.9 | 2.9 | 4.3 | 3.9 | 3.2 |
| GEORGIA | | | 0.2 | 5.4 | 0.9 | 0.0 | 3.9 | 2.1 | 2.4 |
| IDAHO | | | 1.1 | 0.0 | 0.4 | 0.2 | 0.1 | 0.3 | 0.4 |
| ILLINOIS | | | 1.3 | 8.1 | 3.6 | 3.4 | 5.4 | 5.1 | 5.2 |
| INDIANA | | | 0.3 | 2.4 | 0.7 | 0.7 | 1.4 | 2.1 | 2.7 |
| IOWA | | | 0.3 | 0.2 | 0.3 | 0.1 | 0.1 | 1.0 | 1.4 |
| KANSAS | | | 0.7 | 0.9 | 0.6 | 0.4 | 0.5 | 1.3 | 1.1 |
| KENTUCKY | | | 0.0 | 1.0 | 0.2 | 0.0 | 0.7 | 1.8 | 1.6 |
| L[illegible]ANA | | | 0.1 | 5.1 | 0.2 | 0.2 | 3.7 | 1.4 | 1.9 |
| M[illegible] | | | 0.3 | 0.0 | 0.1 | 0.0 | 0.0 | 0.7 | 0.5 |
| MARYLAND | | | 0.2 | 3.3 | 1.3 | 0.1 | 2.4 | 1.9 | 2.0 |
| MASSACHUSETTS | | | 0.3 | 0.8 | 2.1 | 0.6 | 0.7 | 3.1 | 3.0 |
| MICHIGAN | | | 2.3 | 4.3 | 2.0 | 1.2 | 3.3 | 5.1 | 4.8 |
| MINNESOTA | | | 3.4 | 0.2 | 0.8 | 0.2 | 0.2 | 2.4 | 2.0 |
| MISSISSIPPI | | | 0.1 | 4.1 | 0.1 | 0.0 | 2.9 | 0.7 | 1.2 |
| MISSOURI | | | 0.7 | 2.2 | 0.7 | 0.1 | 1.6 | 2.4 | 2.2 |
| MONTANA | | | 4.3 | 0.0 | 0.2 | 0.1 | 0.1 | 0.4 | 0.3 |
| NEBRASKA | | | 1.1 | 0.2 | 0.3 | 0.2 | 0.2 | 0.7 | 0.6 |
| NEVADA | | | 1.4 | 0.2 | 0.5 | 0.2 | 0.2 | 0.3 | 0.3 |
| NEW HAMPSHIRE | | | 0.0 | 0.0 | 0.1 | 0.0 | 0.0 | 0.4 | 0.3 |
| NEW JERSEY | | | 0.2 | 3.4 | 3.3 | 2.6 | 3.1 | 3.3 | 3.2 |
| NEW MEXICO | | | 9.7 | 0.1 | 0.3 | 4.0 | 1.4 | 0.4 | 0.6 |
| NEW YORK | | | 2.9 | 8.1 | 10.6 | 13.9 | 9.4 | 7.4 | 7.8 |
| NORTH CAROLINA | | | 7.2 | 5.2 | 0.3 | 0.0 | 3.9 | 2.3 | 2.7 |
| NORTH DAKOTA | | | 0.6 | 0.0 | 0.1 | 0.0 | 0.0 | 0.3 | 0.3 |
| OHIO | | | 0.6 | 4.4 | 1.0 | 0.8 | 3.4 | 6.0 | 5.6 |
| OKLAHOMA | | | 14.7 | 0.8 | 0.6 | 0.3 | 0.9 | 1.3 | 1.2 |
| OREGON | | | 1.9 | 0.1 | 1.6 | 0.3 | 0.2 | 1.2 | 1.0 |
| PENNSYLVANIA | | | 0.3 | 4.1 | 1.2 | 0.7 | 3.1 | 5.7 | 5.2 |
| RHODE ISLAND | | | 0.1 | 0.1 | 0.3 | 0.0 | 0.1 | 0.5 | 0.4 |
| SOUTH CAROLINA | | | 0.1 | 5.9 | 0.2 | 0.0 | 2.0 | 1.1 | 1.4 |
| SOUTH DAKOTA | | | 1.0 | 0.0 | 0.1 | 0.0 | 0.1 | 0.4 | 0.3 |
| TENNESSEE | | | 0.2 | 3.0 | 0.3 | 0.0 | 1.0 | 2.0 | 2.0 |
| TEXAS | | | 1.6 | 6.0 | 2.0 | 34.9 | 10.4 | 4.7 | 5.9 |
| UTAH | | | 2.4 | 0.0 | 0.7 | 0.3 | 0.3 | 0.8 | 0.7 |
| [illegible]MONT | | | 0.0 | 0.0 | 0.1 | 0.0 | 0.0 | 0.2 | 0.2 |
| [illegible]NIA | | | 0.1 | 3.9 | 1.0 | 0.1 | 3.0 | 2.3 | 2.4 |
| WASHINGTON | | | 3.4 | 0.3 | 4.9 | 0.6 | 0.8 | 2.1 | 1.8 |
| WEST VIRGINIA | | | 0.0 | 0.3 | 0.1 | 0.0 | 0.7 | 1.1 | 0.9 |
| WISCONSIN | | | 2.2 | 0.8 | 0.7 | 0.4 | 0.4 | 2.6 | 2.2 |
| WYOMING | | | 0.5 | 0.0 | 0.1 | 0.2 | 0.1 | 0.2 | 0.2 |
| U.S. TOTAL | | | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

TABLE 91

FULL-TIME CLASSROOM TEACHERS ASSIGNED TO ONLY ONE SCHOOL - FALL 1970
RACIAL/ETHNIC GROUPS, BY STATE AND U.S.
( UNIVERSE PROJECTIONS )

| STATE | SYSTEMS | SCHOOLS | AMER. IND. | NEGRO | ORIENTAL | SPAN. AMER. | MIN. TOTAL | NON.-MIN. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| ALABAMA | 118 | 1378 | 2 | 9495 | 6 | 7 | 9488 | 21941 | 31409 |
| ALASKA | 33 | 290 | 48 | 74 | 9 | 8 | 131 | 5676 | 5807 |
| ARIZONA | 195 | 909 | 87 | 394 | 72 | 750 | 1234 | 16371 | 17605 |
| ARKANSAS | 329 | 964 | 11 | 3128 | 3 | 1 | 3143 | 14940 | 18083 |
| CALIFORNIA | 730 | 6820 | 271 | 8729 | 3606 | 4997 | 17203 | 160941 | 178144 |
| COLORADO | 114 | 1009 | 31 | 418 | 119 | 978 | 1130 | 22124 | 23263 |
| CONNECTICUT | 194 | 1167 | 6 | 1018 | 32 | 119 | 1180 | 30636 | 31832 |
| DELAWARE | 90 | 203 | 1 | 827 | 7 | 9 | 844 | 4896 | 5740 |
| DISTR. OF COLUMBIA | 1 | 200 | 1 | 5338 | 13 | 16 | 5368 | 1348 | 6716 |
| FLORIDA | 68 | 1890 | 13 | 11345 | 33 | 1082 | 12473 | 47210 | [illegible] |
| GEORGIA | 195 | 1894 | 6 | 12761 | 21 | 24 | 12792 | 31856 | 44149 |
| IDAHO | 83 | 496 | 7 | 8 | 27 | 2 | 44 | 7486 | 7531 |
| ILLINOIS | 942 | 4258 | 33 | 9572 | 223 | 300 | 10128 | 88587 | 98715 |
| INDIANA | 310 | 2742 | 14 | 2779 | 57 | 134 | 2984 | 47641 | 50625 |
| IOWA | 431 | 1877 | 5 | 124 | 32 | 40 | 201 | 30551 | 30753 |
| KANSAS | 307 | 1990 | 29 | 607 | 13 | 90 | 739 | 22971 | 23710 |
| KENTUCKY | 195 | 1616 | 5 | 1547 | 6 | 16 | 1572 | 28126 | 29697 |
| LOUISIANA | 66 | 1455 | 34 | 12145 | 10 | 43 | 12232 | 22952 | 35184 |
| MAINE | 132 | 809 | 2 | 13 | 6 | 12 | 31 | 10578 | 10609 |
| MARYLAND | 24 | 1356 | 15 | 7292 | 46 | 61 | 7374 | 29970 | 37344 |
| MASSACHUSETTS | 311 | 2070 | 6 | 639 | 55 | 90 | 789 | 54483 | 55271 |
| MICHIGAN | 510 | 4020 | 63 | 7026 | 165 | 182 | 7451 | 80382 | 87832 |
| MINNESOTA | 406 | 1731 | 95 | 227 | 56 | 46 | 301 | 39936 | 40236 |
| MISSISSIPPI | 152 | 966 | 0 | 9165 | 13 | 17 | 9195 | 13107 | 22302 |
| MISSOURI | 390 | 1992 | 36 | 3700 | 46 | 57 | 3039 | 38001 | 41061 |
| MONTANA | 90 | 350 | 37 | 4 | 10 | 8 | 33 | 6760 | 6799 |
| NEBRASKA | 106 | 776 | 10 | 167 | 16 | 29 | 221 | 12511 | 12733 |
| NEVADA | 15 | 230 | 12 | 144 | 10 | 43 | 209 | 4781 | 4990 |
| NEW HAMPSHIRE | 91 | 307 | 0 | 16 | 5 | 12 | 73 | 7148 | 7181 |
| NEW JERSEY | 494 | 2316 | 12 | 6932 | 136 | 282 | 9342 | 63721 | 69082 |
| NEW MEXICO | 78 | 587 | 90 | 143 | 20 | 1942 | 2175 | 9457 | 11632 |
| NEW YORK | 675 | 6359 | 69 | 7094 | 370 | 1135 | 8626 | 167649 | 176275 |
| NORTH CAROLINA | 154 | 2103 | 438 | 11012 | 17 | 44 | 11513 | 36092 | 47605 |
| NORTH DAKOTA | 117 | 335 | 7 | 7 | 5 | 0 | 19 | 5273 | [illegible] |
| OHIO | 631 | 4167 | 13 | 9668 | 107 | 97 | 9885 | 91759 | 97644 |
| OKLAHOMA | 324 | 1772 | 600 | 1517 | 11 | 94 | 2182 | 21307 | 23489 |
| OREGON | 177 | 1052 | 42 | 123 | 136 | 43 | 345 | 20707 | 21052 |
| PENNSYLVANIA | 543 | 4413 | 12 | 5190 | 52 | 70 | 5321 | 93941 | 94262 |
| RHODE ISLAND | 37 | 303 | 2 | 107 | 9 | 8 | 126 | 8337 | 8463 |
| SOUTH CAROLINA | 93 | 1190 | 6 | 8482 | 11 | 16 | 8511 | 17235 | 25746 |
| SOUTH DAKOTA | 195 | 690 | 9 | 5 | 1 | 7 | 22 | 7193 | 7215 |
| TENNESSEE | 148 | 1880 | 1 | 5744 | 3 | 15 | 5760 | 28921 | 34681 |
| TEXAS | 790 | 4535 | 531 | 12739 | 67 | 6541 | 19538 | 94249 | 113787 |
| UTAH | 50 | 519 | 5 | 20 | 43 | 51 | 119 | 11369 | 11488 |
| VERMONT | 103 | 248 | 0 | 10 | 3 | 12 | 25 | 4646 | 4671 |
| VIRGINIA | 130 | 1850 | 20 | 8521 | 29 | 48 | 8618 | 37219 | 45837 |
| WASHINGTON | 314 | 1557 | 72 | 345 | 267 | 92 | 796 | 31038 | 31834 |
| WEST VIRGINIA | 56 | 1137 | 3 | 623 | 2 | 10 | 635 | 15992 | 16517 |
| WISCONSIN | 431 | 2065 | 46 | 701 | 60 | 67 | 961 | 42196 | 43136 |
| WYOMING | 49 | 374 | 2 | 5 | 5 | 34 | 45 | 3767 | 3810 |
| U.S. TOTAL | 11790 | 82337 | 2406 | 180939 | 6310 | 16732 | 232355 | 1713415 | 1922171 |

TABLE VII

FULL-TIME CLASSROOM TEACHERS ASSIGNED TO ONLY ONE SCHOOL - FALL 1970
RACIAL/ETHNIC GROUPS, BY STATE AND U.S.
HORIZONTAL PERCENTS BASED ON STATE RACIAL/ETHNIC TOTALS
( UNIVERSE PROJECTIONS )

| STATE | SYSTEMS | SCHOOLS | AMER. IND. | NEGRO | ORIENTAL | SPAN. AMER. | MIN. TOTAL | NON.-MIN. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| ALABAMA | | | 0.0 | 30.1 | 0.0 | 0.0 | 30.1 | 69.9 | 100.0 |
| ALASKA | | | 3.1 | 0.1 | 0.2 | 0.2 | 3.6 | 96.4 | 100.0 |
| ARIZONA | | | 0.3 | 2.0 | 0.4 | 4.1 | 7.0 | 93.0 | 100.0 |
| ARKANSAS | | | 0.1 | 17.3 | 0.0 | 0.0 | 17.4 | 82.6 | 100.0 |
| CALIFORNIA | | | 0.2 | 4.0 | 2.1 | 3.3 | 9.7 | 90.3 | 100.0 |
| COLORADO | | | 0.1 | 1.0 | 0.3 | 3.5 | 4.9 | 95.1 | 100.0 |
| CONNECTICUT | | | 0.0 | 3.2 | 0.1 | 0.4 | 3.7 | 96.3 | 100.0 |
| DELAWARE | | | 0.0 | 14.4 | 0.1 | 0.2 | 14.7 | 85.3 | 100.0 |
| DISTR. OF COLUMBIA | | | 0.0 | 79.5 | 0.2 | 0.2 | 79.9 | 20.1 | 100.0 |
| FLORIDA | | | 0.0 | 19.8 | 0.1 | 1.0 | 20.9 | 79.1 | 100.0 |
| GEORGIA | | | 0.0 | 27.7 | 0.0 | 0.1 | 27.8 | 72.2 | 100.0 |
| IDAHO | | | 0.1 | 0.1 | 0.4 | 0.0 | 0.6 | 99.4 | 100.0 |
| ILLINOIS | | | 0.0 | 9.7 | 0.2 | 0.3 | 10.3 | 89.7 | 100.0 |
| INDIANA | | | 0.0 | 5.5 | 0.1 | 0.3 | 5.9 | 94.1 | 100.0 |
| IOWA | | | 0.0 | 0.4 | 0.1 | 0.1 | 0.7 | 99.3 | 100.0 |
| KANSAS | | | 0.1 | 2.6 | 0.1 | 0.4 | 3.1 | 96.9 | 100.0 |
| KENTUCKY | | | 0.0 | 4.6 | 0.0 | 0.1 | 4.7 | 95.3 | 100.0 |
| LOUISIANA | | | 0.1 | 34.5 | 0.0 | 0.2 | 34.8 | 65.2 | 100.0 |
| MAINE | | | 0.0 | 0.1 | 0.0 | 0.1 | 0.3 | 99.7 | 100.0 |
| MARYLAND | | | 0.0 | 19.4 | 0.1 | 0.2 | 19.7 | 80.3 | 100.0 |
| MASSACHUSETTS | | | 0.0 | 1.1 | 0.1 | 0.2 | 1.4 | 98.6 | 100.0 |
| MICHIGAN | | | 0.1 | 8.0 | 0.2 | 0.2 | 8.5 | 91.5 | 100.0 |
| MINNESOTA | | | 0.1 | 0.6 | 0.1 | 0.1 | 0.9 | 99.1 | 100.0 |
| MISSISSIPPI | | | 0.0 | 40.9 | 0.1 | 0.1 | 41.1 | 58.9 | 100.0 |
| MISSOURI | | | 0.1 | 8.0 | 0.1 | 0.1 | 8.2 | 91.8 | 100.0 |
| MONTANA | | | 0.5 | 0.1 | 0.1 | 0.1 | 0.9 | 99.1 | 100.0 |
| NEBRASKA | | | 0.1 | 1.3 | 0.1 | 0.2 | 1.7 | 98.3 | 100.0 |
| NEVADA | | | 0.2 | 3.0 | 0.2 | 0.8 | 4.2 | 95.8 | 100.0 |
| NEW HAMPSHIRE | | | 0.0 | 0.2 | 0.1 | 0.2 | 0.5 | 99.5 | 100.0 |
| NEW JERSEY | | | 0.0 | 7.1 | 0.2 | 0.4 | 7.8 | 92.2 | 100.0 |
| NEW MEXICO | | | 0.8 | 1.2 | 0.2 | 16.7 | 18.9 | 81.1 | 100.0 |
| NEW YORK | | | 0.0 | 4.0 | 0.2 | 0.6 | 4.9 | 95.1 | 100.0 |
| NORTH CAROLINA | | | 1.0 | 23.1 | 0.0 | 0.1 | 24.2 | 75.8 | 100.0 |
| NORTH DAKOTA | | | 0.1 | 0.1 | 0.1 | 0.0 | 0.4 | 99.6 | 100.0 |
| OHIO | | | 0.0 | 5.8 | 0.1 | 0.1 | 6.0 | 94.0 | 100.0 |
| OKLAHOMA | | | 3.0 | 5.5 | 0.6 | 0.2 | 9.3 | 90.7 | 100.0 |
| OREGON | | | 0.2 | 0.6 | 0.6 | 0.2 | 1.6 | 98.4 | 100.0 |
| PENNSYLVANIA | | | 0.0 | 5.2 | 0.0 | 0.1 | 5.4 | 94.6 | 100.0 |
| RHODE ISLAND | | | 0.0 | 1.3 | 0.1 | 0.1 | 1.5 | 98.5 | 100.0 |
| SOUTH CAROLINA | | | 0.0 | 32.9 | 0.0 | 0.1 | 33.1 | 66.9 | 100.0 |
| SOUTH DAKOTA | | | 0.1 | 0.1 | 0.0 | 0.1 | 0.3 | 99.7 | 100.0 |
| TENNESSEE | | | 0.0 | 16.6 | 0.0 | 0.0 | 16.6 | 83.4 | 100.0 |
| TEXAS | | | 0.1 | 11.2 | 0.1 | 5.8 | 17.2 | 82.8 | 100.0 |
| UTAH | | | 0.0 | 0.2 | 0.4 | 0.4 | 1.0 | 99.0 | 100.0 |
| VERMONT | | | 0.0 | 0.2 | 0.1 | 0.3 | 0.5 | 99.5 | 100.0 |
| VIRGINIA | | | 0.0 | 18.6 | 0.1 | 0.1 | 18.8 | 81.2 | 100.0 |
| WASHINGTON | | | 0.2 | 1.1 | 0.9 | 0.3 | 2.5 | 97.5 | 100.0 |
| WEST VIRGINIA | | | 0.0 | 3.7 | 0.0 | 0.1 | 3.8 | 96.2 | 100.0 |
| WISCONSIN | | | 0.1 | 1.8 | 0.2 | 0.1 | 2.2 | 97.8 | 100.0 |
| WYOMING | | | 0.5 | 0.1 | 0.1 | 0.4 | 1.1 | 98.9 | 100.0 |
| U.S. TOTAL | | | 0.1 | 9.4 | 0.3 | 1.0 | 10.8 | 89.2 | 100.0 |

## TABLE VIII

FULL-TIME CLASSROOM TEACHERS ASSIGNED TO ONLY ONE SCHOOL - FALL 1970
RACIAL/ETHNIC GROUPS, BY STATE AND U.S.
VERTICAL PERCENTS BASED ON U.S. RACIAL/ETHNIC TOTALS
( UNIVERSE PROJECTIONS )

| STATE | SYSTEMS | SCHOOLS | AMER. IND. | NEGRO | ORIENTAL | SPAN. AMER. | MIN. TOTAL | NON.-MIN. | TOTAL |
|---|---|---|---|---|---|---|---|---|---|
| ALABAMA | | | 0.1 | 5.2 | 0.1 | 0.0 | 4.5 | 1.3 | 1.6 |
| ALASKA | | | 1.7 | 0.0 | 0.1 | 0.0 | 0.1 | 0.2 | 0.2 |
| ARIZONA | | | 2.4 | 0.2 | 0.1 | 0.8 | 0.6 | 1.0 | 0.9 |
| ARKANSAS | | | 0.4 | 1.7 | 0.1 | 0.0 | 1.5 | 0.9 | 0.9 |
| CALIFORNIA | | | 11.5 | 4.8 | 40.3 | 25.5 | 8.3 | 9.4 | 9.3 |
| COLORADO | | | 1.3 | 0.2 | 1.9 | 3.6 | 0.9 | 1.3 | 1.2 |
| CONNECTICUT | | | 0.3 | 0.6 | 0.5 | 0.6 | 0.6 | 1.8 | 1.7 |
| DELAWARE | | | 0.0 | 0.5 | 0.1 | 0.0 | 0.4 | 0.3 | 0.3 |
| DISTR. OF COLUMBIA | | | 0.0 | 3.0 | 0.2 | 0.1 | 2.6 | 0.1 | 0.3 |
| FLORIDA | | | 0.5 | 6.3 | 0.5 | 3.1 | 6.0 | 2.8 | 3.1 |
| GEORGIA | | | 0.0 | 6.8 | 0.3 | 0.1 | 5.9 | 1.8 | 2.3 |
| IDAHO | | | 0.3 | 0.0 | 0.4 | 0.0 | 0.0 | 0.4 | 0.4 |
| ILLINOIS | | | 1.4 | 5.3 | 3.3 | 1.6 | 4.9 | 5.2 | 5.1 |
| INDIANA | | | 0.6 | 1.8 | 0.9 | 0.7 | 1.6 | 2.8 | 2.6 |
| IOWA | | | 0.7 | 0.1 | 0.5 | 0.2 | 0.1 | 1.8 | 1.6 |
| KANSAS | | | 1.2 | 0.3 | 0.2 | 0.5 | 0.4 | 1.3 | 1.2 |
| KENTUCKY | | | 0.2 | 0.7 | 0.1 | 0.1 | 0.7 | 1.6 | 1.5 |
| LOUISIANA | | | 1.4 | 6.7 | 0.2 | 0.2 | 5.9 | 1.8 | 1.8 |
| MAINE | | | 0.1 | 0.0 | 0.1 | 0.1 | 0.0 | 0.6 | 0.6 |
| MARYLAND | | | 0.6 | 4.0 | 0.7 | 0.3 | 3.5 | 1.7 | 1.9 |
| MASSACHUSETTS | | | 0.4 | 0.6 | 0.9 | 0.4 | 0.6 | 3.2 | 2.9 |
| MICHIGAN | | | 2.0 | 5.0 | 2.9 | 1.0 | 3.6 | 4.7 | 4.6 |
| MINNESOTA | | | 2.3 | 0.1 | 0.9 | 0.2 | 0.2 | 2.3 | 2.1 |
| MISSISSIPPI | | | 0.0 | 5.1 | 0.2 | 0.1 | 4.4 | 0.8 | 1.2 |
| MISSOURI | | | 0.4 | 2.0 | 0.7 | 0.3 | 1.9 | 2.2 | 2.2 |
| MONTANA | | | 1.6 | 0.0 | 0.2 | 0.0 | 0.0 | 0.4 | 0.4 |
| NEBRASKA | | | 0.4 | 0.1 | 0.3 | 0.3 | 0.1 | 0.7 | 0.7 |
| NEVADA | | | 0.5 | 0.1 | 0.2 | 0.2 | 0.1 | 0.3 | 0.3 |
| NEW HAMPSHIRE | | | 0.0 | 0.0 | 0.1 | 0.1 | 0.0 | 0.4 | 0.4 |
| NEW JERSEY | | | 0.3 | 3.7 | 2.2 | 1.3 | 2.6 | 3.7 | 3.6 |
| NEW MEXICO | | | 3.7 | 0.1 | 0.3 | 10.4 | 1.1 | 0.6 | 0.6 |
| NEW YORK | | | 2.9 | 5.0 | 5.0 | 4.1 | 4.1 | 9.0 | 8.2 |
| NORTH CAROLINA | | | 10.2 | 6.1 | 0.3 | 0.2 | 5.5 | 2.1 | 2.5 |
| NORTH DAKOTA | | | 0.3 | 0.0 | 0.1 | 0.0 | 0.0 | 0.3 | 0.3 |
| OHIO | | | 0.5 | 5.1 | 1.7 | 0.5 | 3.8 | 5.4 | 5.1 |
| OKLAHOMA | | | 25.0 | 0.8 | 0.2 | 0.2 | 1.0 | 1.2 | 1.2 |
| OREGON | | | 1.0 | 0.1 | 2.2 | 0.2 | 0.2 | 1.2 | 1.1 |
| PENNSYLVANIA | | | 0.5 | 3.9 | 0.5 | 0.4 | 3.0 | 5.5 | 5.2 |
| RHODE ISLAND | | | 0.1 | 0.1 | 0.1 | 0.0 | 0.1 | 0.5 | 0.4 |
| SOUTH CAROLINA | | | 0.2 | 4.7 | 0.2 | 0.1 | 4.1 | 1.0 | 1.3 |
| SOUTH DAKOTA | | | 0.4 | 0.0 | 0.0 | 0.5 | 0.0 | 0.4 | 0.4 |
| TENNESSEE | | | 0.0 | 3.2 | 0.0 | 0.1 | 2.8 | 1.7 | 1.8 |
| TEXAS | | | 5.5 | 7.1 | 1.4 | 35.0 | 9.4 | 5.8 | 5.9 |
| UTAH | | | 0.2 | 0.0 | 0.7 | 0.3 | 0.1 | 0.7 | 0.6 |
| VERMONT | | | 0.0 | 0.0 | 0.1 | 0.1 | 0.0 | 0.3 | 0.2 |
| VIRGINIA | | | 0.0 | 4.7 | 0.5 | 0.3 | 4.1 | 2.2 | 2.4 |
| WASHINGTON | | | 3.0 | 0.2 | 4.5 | 0.5 | 0.4 | 1.8 | 1.7 |
| WEST VIRGINIA | | | 0.1 | 0.3 | 0.0 | 0.1 | 0.3 | 0.4 | 0.9 |
| WISCONSIN | | | 1.0 | 0.4 | 1.1 | 0.3 | 0.5 | 2.9 | 2.8 |
| WYOMING | | | 0.1 | 0.0 | 0.0 | 0.2 | 0.0 | 0.3 | 0.2 |
| U.S. TOTAL | | | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

## APPENDIX C

Summary of the President's Message to the Congress of July 8, 1970, transmitting recommendations for Indian policy.

The Message asserts that it is long past time that the Federal Government acknowledged the history of oppression suffered by American Indians and began to pursue policies that built upon their capacities and insights.

The basic policy affirmation running through the Message is a reassertion of the historic and legal relationship between the Federal Government and Indian communities.

It categorically rejects "termination", the national policy of the 1950's whereby Indian communities were cut adrift from their Federal relationship. Instead, The President argues for a basic national Indian policy summarized as "self-determination without termination", p. 2. In other words, Indian people should be encouraged to shape their own destiny without fear that this initiative will jeopardize the special Federal relationship upon which they depend and to which they are rightfully entitled. The objective is to "Make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support", p. 3.

In addition to rejecting "termination", the Message:

2. Asserts the right of Indian people to take over control of Federal programs whenever the tribe or Indian community wishes to do so.

3. Restored sacred Blue Lake land in New Mexico to the Taos Pueblo Indians.

4. Made a strong statement supporting the right of "... every Indian community wishing to do so...to control its own Indian schools."

   -Established an Education Subcommittee of the National Council on Indian Opportunity on The Vice-President's Office (this section is attached; quoted in full).

5. Proposed the "Indian Financing Act of 1970" that would expand funds for Indian economic development projects and enable tribes to enter into long-term leasing of their lands.

6. Offered expanded funds for the Indian health program.

7. Initiated joint efforts by OEO, HEW, DOL, HUD, Commerce, and BIA to establish experimental urban Indian centers to provide Federal services to the growing urban Indian population.

8. Proposed as Indian Trust Counsel Authority to represent Indian interests in the use of trust lands.

9. Proposed a new post of Assistant Secretary in the Department of Interior.

Finally, the Message cites continuing Federal support of Indian programs totaling $598 million in FY 1970 and $626 million in FY 1971, and concludes by observing the potential benefit of the Family Assistance and Family Health Plans to Indians.

## Section on Education of the President's July 8, 1970, Message to The Congress Transmitting Recommendations for Indian Policy; pp. 6-7

"One of the saddest aspects of Indian life in the United States is the low quality of Indian education. Drop-out rates for Indians are twice the national average and the average educational level for all Indians under Federal supervision is less than six school years. Again, at least a part of the problem stems from the fact that the Federal government is trying to do for Indians what many Indians could do better for themselves.

The Federal government now has responsibility for some 221,000 Indian children of school age. While over 50,000 of these children attend schools which are operated directly by the Bureau of Indian Affairs, only 750 Indian children are enrolled in schools where the responsibility for education has been contracted by the BIA to Indian school boards. Fortunately, this condition is beginning to change. The Ramah Navajo Community of New Mexico and the Rought Rock and Black Water Schools in Arizona are notable examples of schools which have recently been brought under local Indian control. Several other communities are now negotiating for similar arrangements.

Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own Indian schools. This control would be exercised by school boards selected by Indians and functioning much like other school boards throughout the nation. To assure that this goals is achieved, I am asking the Vice President acting in his role as Chairman of the National Council on Indian Opportunity, to establish a Special Education Subcommittee of that Council. The members of that Subcommittee should be Indian educators who are selected by the Council's Indian members. The Subcommittee will provide technical assistance to Indian communities wishing to establish school boards, will conduct a nationwide review of the educational status of all Indian school children in whatever schools they may be attending, and will evaluate and report annually on the status of Indian education, including the extent of local control. This Subcommittee will act as a transitional mechanism; its objective should not be self-perpetuation but the actual transfer of Indian education to Indian communities.

We must also take specific action to benefit Indian children in public schools. Some 141,000 Indian children presently attend general public schools near their homes. Fifty-two thousand of these are absorbed by local school districts without special Federal aid. But 89,000 Indian children attend public schools in such high concentrations that the State or local school districts involved are eligible for special Federal assistance under the Johnson-O'Malley Act. In Fiscal Year 1971, the Johnson-O'Malley program will be funded at a level of some $20 million.

This Johnson-O'Malley money is designed to help Indian students, but since funds go directly to the school districts, the Indians have little if any influence over the way in which the money is spent. I therefore propose that the Congress amend the Johnson-O'Malley Act so as to authorize the Secretary of the Interior to channel funds under this act directly to Indian tribes and communities. Such a provision would give Indians the ability to help shape the schools which their children attend and, in some instances, to set up new school systems of their own. At the same time, I am directing the Secretary of the Interior to make every effort to ensure that Johnson-O'Malley funds which are presently directed to public school districts are actually spent to improve the education of Indian children in these districts.

91st Congress } HOUSE OF REPRESENTATIVES { Document
*2d Session* } { No. 91-363

# RECOMMENDATIONS FOR INDIAN POLICY

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## MESSAGE

FROM

# THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

## RECOMMENDATIONS FOR INDIAN POLICY

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July 8, 1970.—Referred to the Committee on Interior and Insular Affairs and ordered to be printed

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*To the Congress of the United States:*

The first Americans—the Indians—are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people ranks at the bottom.

This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny. Even the Federal programs which are intended to meet their needs have frequently proven to be ineffective and demeaning.

But the story of the Indian in America is something more than the record of the white man's frequent aggression, broken agreements, intermittent remorse and prolonged failure. It is a record also of endurance, of survival, of adaptation and creativity in the face of overwhelming obstacles. It is a record of enormous contributions to this country—to its art and culture, to its strength and spirit, to its sense of history and its sense of purpose.

It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and insights of the Indian people. Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions.

### SELF-DETERMINATION WITHOUT TERMINATION

The first and most basic question that must be answered with respect to Indian policy concerns the historic and legal relationship between the Federal government and Indian communities. In the past, this relationship has oscillated between two equally harsh and unacceptable extremes.

On the one hand, it has—at various times during previous Administrations—been the stated policy objective of both the Executive and Legislative branches of the Federal government eventually to terminate the trusteeship relationship between the Federal government and the Indian people. As recently as August of 1953, in House Concurrent Resolution 108, the Congress declared that termination was the long-range goal of its Indian policies. This would mean that Indian tribes would eventually lose any special standing they had under Federal law: the tax exempt status of their lands would be discontinued; Federal responsibility for their economic and social well-being would be repudiated; and the tribes themselves would be effectively dismantled. Tribal property would be divided among individual members who would then be assimilated into the society at large.

This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government. Down through the years, through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety, services which would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the Federal government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.

The second reason for rejecting forced termination is that the practical results have been clearly harmful in the few instances in which termination actually has been tried. The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before.

The third argument I would make against forced termination concerns the effect it has had upon the overwhelming majority of tribes which still enjoy a special relationship with the Federal government. The very threat that this relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disavow its responsibility and cut them adrift.

In short, the fear of one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible and responsive to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving. This is the second of the two harsh approaches which have long plagued our Indian policies. Of the Department of the Interior's programs directly serving Indians, for example, only 1.5 percent are presently under Indian control. Only 2.4 percent of HEW's Indian health programs are run by Indians. The result is a burgeoning Federal bureaucracy, programs which are far less effective than they ought to be, and an erosion of Indian initiative and morale.

I believe that both of these policy extremes are wrong. Federal termination errs in one direction, Federal paternalism errs in the other. Only by clearly rejecting both of these extremes can we achieve a policy which truly serves the best interests of the Indian people. Self-determination among the Indian people can and must be encouraged without the threat of eventual termination. In my view, in fact, that is the only way that self-determination can effectively be fostered.

This, then, must be the goal of any new national policy toward the Indian people: to strengthen the Indian's sense of autonomy without threatening his sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support. My specific recommendations to the Congress are designed to carry out this policy.

### *1. Rejecting termination*

Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking the Congress to pass a new Concurrent Resolution which would expressly renounce, repudiate and repeal the termination policy as expressed in House Concurrent Resolu[illegible] 108 of the 83rd Congress. This resolution would explicitly affirm the integrity and right to continued existence of all Indian tribes and Alaska native governments, recognizing that cultural pluralism is a source of national strength. It would assure these groups that the United States Government would continue to carry out its treaty and trusteeship obligations to them as long as the groups themselves believed that such a policy was necessary or desirable. It would guarantee that whenever

Indian groups decided to assume control or responsibility for government service programs, they could do so and still receive adequate Federal financial support. In short, such a resolution would reaffirm for the Legislative branch—as I hereby affirm for the Executive branch—that the historic relationship between the Federal government and the Indian communities cannot be abridged without the consent of the Indians.

### 2. *The right to control and operate Federal programs*

Even as we reject the goal of forced termination, so must we reject the suffocating pattern of paternalism. But how can we best do this? In the past, we have often assumed that because the government is obliged to provide certain services for Indians, it therefore must administer those same services. And to get rid of Federal administration, by the same token, often meant getting rid of the whole Federal program. But there is no necessary reason for this assumption. Federal support programs for non-Indian communities—hospitals and schools are two ready examples—are ordinarily administered by local authorities. There is no reason why Indian communities should be deprived of the privilege of self-determination merely because they receive monetary support from the Federal government. Nor should they lose Federal money because they reject Federal control.

For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the Federal authorities and not the Indian people who finally make that decision.

This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing and able to assume administrative responsibility for a service program which is presently administered by a Federal agency. To this end, I am proposing legislation which would empower a tribe or a group of tribes or any other Indian community to take over the control or operation of Federally-funded and administered programs in the Department of the Interior and the Department of Health, Education and Welfare whenever the tribal council or comparable community governing group voted to do so.

Under this legislation, it would not be necessary for the Federal agency administering the program to approve the transfer of responsibility. It is my hope and expectation that most such transfers of power would still take place consensually as a result of negotiations between the local community and the Federal government. But in those cases in which an impasse arises between the two parties, the final determination should rest with the Indian community.

Under the proposed legislation, Indian control of Indian programs would always be a wholly voluntary matter. It would be possible for an Indian group to select that program or that specified portion of a program that it wants to run without assuming responsibility for other components. The "right of retrocession" would also be guaranteed; this means that if the local community elected to administer a program and then later decided to give it back to the Federal government, it would always be able to do so.

Appropriate technical assistance to help local organizations successfully operate these programs would be provided by the Federal government. No tribe would risk economic disadvantage from managing its own programs; under the proposed legislation, locally-administered programs would be funded on equal terms with similar services still administered by Federal authorities. The legislation I propose would include appropriate protections against any action which endangered the rights, the health, the safety or the welfare of individuals. It would also contain accountability procedures to guard against gross negligence or mismanagement of Federal funds.

This legislation would apply only to services which go directly from the Federal government to the Indian community; those services which are channeled through State or local governments could still be turned over to Indian control by mutual consent. To run the activities for which they have assumed control, the Indian groups could employ local people or outside experts. If they chose to hire Federal employees who had formerly administered these projects, those employees would still enjoy the privileges of Federal employee benefit programs—under special legislation which will also be submitted to the Congress.

Legislation which guarantees the right of Indians to contract for the control or operation of Federal programs would directly channel more money into Indian communities, since Indians themselves would be administering programs and drawing salaries which now often go to non-Indian administrators. The potential for Indian control is significant, for we are talking about programs which annually spend over $400 million in Federal funds. A policy which encourages Indian administration of these programs will help build greater pride and resourcefulness within the Indian community. At the same time, programs which are managed and operated by Indians are likely to be more effective in meeting Indian needs.

I speak with added confidence about these anticipated results because of the favorable experience of programs which have already been turned over to Indian control. Under the auspices of the Office of Economic Opportunity, Indian communities now run more than 60 community action agencies which are located on Federal reservations. OEO is planning to spend some $57 million in Fiscal Year 1971 through Indian-controlled grantees. For over four years, many OEO-funded programs have operated under the control of local Indian organizations and the results have been most heartening.

Two Indian tribes—the Salt River Tribe and the Zani Tribe—have recently extended this principle of local control to virtually all of the programs which the Bureau of Indian Affairs has traditionally administered for them. Many Federal officials, including the Agency Superintendent, have been replaced by elected tribal officers or tribal employees. The time has now come to build on these experiences and to extend local Indian control at a rate and to the degree that the Indians themselves establish.

### *3. Restoring the sacred lands near Blue Lake*

No government policy toward Indians can be fully effective unless there is a relationship of trust and confidence between the Federal government and the Indian people. Such a relationship cannot be completed overnight, it is inevitably the product of a long series of words and actions. But we can contribute significantly to such a relationship by responding to just grievances which are especially important to the Indian people.

Once such grievance concerns the sacred Indian lands at and near Blue Lake in New Mexico. From the fourteenth century, the Taos Pueblo Indians used these areas for religious and tribal purposes. In 1906, however, the United States Government appropriated these lands for the creation of a national forest. According to a recent determination of the Indian Claims Commission, the government "took said lands from petitioner without compensation."

For 64 years, the Taos Pueblo has been trying to regain possession of this sacred lake and watershed area in order to preserve it in its natural condition and limit its non-Indian use. The Taos Indians consider such action essential to the protection and expression of their religious faith.

The restoration of the Blue Lake lands to the Taos Pueblo Indians is an issue of unique and critical importance to Indians throughout the country. I therefore take this opportunity wholeheartedly to endorse legislation which would restore 48,000 acres of sacred land to the Taos Pueblo people, with the statutory promise that they would be able to use these lands for traditional purposes and that except for such uses the lands would remain forever wild.

With the addition of some perfecting amendments, legislation now pending in the Congress would properly achieve this goal. That legislation (H.R. 471) should promptly be amended and enacted. Such action would stand as an important symbol of this government's responsiveness to the just grievances of the American Indians.

### 4. *Indian Education*

One of the saddest aspects of Indian life in the United States is the low quality of Indian education. Drop-out rates for Indians are twice the national average and the average educational level for all Indians under Federal supervision is less than six school years. Again, at least a part of the problem stems from the fact that the Federal government is trying to do for Indians what many Indians could do better for themselves.

The Federal government now has responsibility for some 221,000 Indian children of school age. While over 50,000 of these children attend schools which are operated directly by the Bureau of Indian Affairs, only 750 Indian children are enrolled in schools where the responsibility for education has been contracted by the BIA to Indian school boards. Fortunately, this condition is beginning to change. The Ramah Navajo Community of New Mexico and the Rough Rock and Black Water Schools in Arizona are notable examples of schools which have recently been brought under local Indian control. Several other communities are now negotiating for similar arrangements.

Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own Indian schools. This control would be exercised by school boards selected by Indians and functioning much like other school boards throughout the nation. To assure that this goal is achieved, I am asking the Vice President, acting in his role as Chairman of the National Council on Indian Opportunity, to establish a Special Education Subcommittee of that Council. The members of that Subcommittee should be Indian educators who are selected by the Council's Indian members. The Subcommittee will provide technical assistance to Indian communities wishing to establish school boards, will conduct a nationwide review of the educational status of all Indian school children in whatever schools they may be attending, and will evaluate and report annually on the status of Indian education, including the extent of local control. This Subcommittee will act as a transitional mechanism; its objective should not be self perpetuation but the actual transfer of Indian education to Indian communities.

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This Johnson-O'Malley money is designed to help Indian students, but since funds go directly to the school districts, the Indians have little if any influence over the way in which the money is spent. I therefore propose that the Congress amend the Johnson-O'Malley Act so as to authorize the Secretary of the Interior to channel funds under this act directly to Indian tribes and communities. Such a provision would give Indians the ability to help shape the schools which their children attend and, in some instances, to set up new school systems of their own. At the same time, I am directing the Secretary of the Interior to make every effort to ensure that Johnson-O'Malley funds which are presently directed to public school districts are actually spent to improve the education of Indian children in these districts.

*5. Economic development legislation*

Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line; the average annual income for such families is only $1,500. As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the "Indian Financing Act of 1970."

This act would do two things:

1. It would broaden the existing Revolving Loan Fund, which loans money for Indian economic development projects. I am asking that the authorization for this fund be increased from approximately $25 million to $75 million.

2. It would provide additional incentives in the form of loan guarantees, loan insurance and interest subsidies to encourage *private* lenders to loan more money for Indian economic projects. An aggregate amount of $200 million would be authorized for loan guarantee and loan insurance purposes.

**I also urge that legislation be enacted which would permit any tribe which chooses to do so to enter into leases of its land for up to 99 years.** Indian people now own over 50 million acres of land that are held in trust by the Federal government. In order to compete in attracting investment capital for commercial, industrial and recreational development of these lands, it is essential that the tribes be able to offer long-term leases. Long-term leasing is preferable to selling such property since it enables tribes to preserve the trust ownership of their reservation homelands. But existing law limits the length of time for which many tribes can enter into such leases. Moreover, when long-term leasing is allowed, it has been granted by Congress on a case-by-case basis, a policy which again reflects a deep-rooted pattern of paternalism. The twenty reservations which have already been given authority for long-term leasing have realized important benefits from that privilege and this opportunity should now be extended to all Indian tribes.

Economic planning is another area where our efforts can be significantly improved. The comprehensive economic development plans that have been created by both the Pima-Maricopa and the Zuni Tribes provide outstanding examples of interagency cooperation in fostering Indian economic growth. The Zuni Plan, for example, extends for at least five years and involves a total of $55 million from the Departments of Interior, Housing and Urban Development, and Health, Education and Welfare and from the Office of Economic Opportunity and the Economic Development Administration. I am directing the Secretary of the Interior to play an active role in coordinating additional projects of this kind.

### *6. More money for Indian health*

Despite significant improvements in the past decade and a half, the health of Indian people still lags 20 to 25 years behind that of the general population. The average age at death among Indians is 44 years, about one-third less than the national average. Infant mortality is nearly 50% higher for Indians and Alaska natives than for the population at large; the tuberculosis rate is eight times as high and the suicide rate is twice that of the general population. Many infectious diseases such as trachoma and dysentery that have all but disappeared among other Americans continue to afflict the Indian people.

This Administration is determined that the health status of the first Americans will be improved. In order to initiate expanded efforts in this area, I will request the allocation of an additional $10 million for Indian health programs for the current fiscal year. This strengthened Federal effort will enable us to address ourselves more effectively to those health problems which are particularly important to the Indian community. We understand, for example, that areas of greatest concern to Indians include the prevention and control of alcoholism, the promotion of mental health and the control of middle-ear disease. We hope that the ravages of middle-ear disease—a particularly acute disease among Indians—can be brought under control within five years.

These and other Indian health programs will be most effective if more Indians are involved in running them. Yet—almost unbelievably—we are presently able to identify in this country only 30 physicians and fewer than 400 nurses of Indian descent. To meet this situation, we will expand our efforts to train Indians for health careers.

### 7. *Helping urban Indians*

Our new census will probably show that a larger proportion of America's Indians are living off the reservation than ever before in our history. Some authorities even estimate that more Indians are living in cities and towns than are remaining on the reservation. Of those American Indians who are now dwelling in urban areas, approximately three-fourths are living in poverty.

The Bureau of Indian Affairs is organized to serve the 462,000 reservation Indians. The BIA's responsibility does not extend to Indians who have left the reservation, but this point is not always clearly understood. As a result of this misconception, Indians living in urban areas have often lost out on the opportunity to participate in other programs designed for disadvantaged groups. As a first step toward helping the urban Indians, I am instructing appropriate officials to do all they can to ensure that this misunderstanding is corrected.

But misunderstandings are not the most important problem confronting urban Indians. The biggest barrier faced by those Federal, State and local programs which are trying to serve urban Indians is the difficulty of locating and identifying them. Lost in the anonymity of the city, often cut off from family and friends, many urban Indians are slow to establish new community ties. Many drift from neighborhood to neighborhood; many shuttle back and forth between reservations and urban areas. Language and cultural differences compound these problems. As a result, Federal, State and local programs which are designed to help such persons often miss this most deprived and least understood segment of the urban poverty population.

This Administration is already taking steps which will help remedy this situation. In a joint effort, the Office of Economic Opportunity and the Department of Health, Education and Welfare will expand support to a total of seven urban Indian centers in major cities which will act as links between existing Federal, State and local service programs and the urban Indians. The Departments of Labor, Housing and Urban Development and Commerce have pledged to cooperate with such experimental urban centers and the Bureau of Indian Affairs has expressed its willingness to contract with these centers for the performance of relocation services which assist reservation Indians in their transition to urban employment.

These efforts represent an important beginning in recognizing and alleviating the severe problems faced by urban Indians. We hope to learn a great deal from these projects and to expand our efforts as rapidly as possible. I am directing the Office of Economic Opportunity to lead these efforts.

### 8. *Indian trust counsel authority*

The United States Government acts as a legal trustee for the land and water rights of American Indians. These rights are often of critical economic importance to the Indian people; frequently they are also the subject of extensive legal dispute. In many of these legal confrontations, the Federal government is faced with an inherent conflict of interest. The Secretary of the Interior and the Attorney General must at the same time advance *both* the *national* interest in the use of land and water rights *and* the *private* interests of Indians in land which the government holds as trustee.

Every trustee has a legal obligation to advance the interests of the beneficiaries of the trust without reservation and with the highest degree of diligence and skill. Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation. No self-respecting law firm would ever allow itself to represent two opposing clients in one dispute; yet the Federal government has frequently found itself in precisely that position. There is considerable evidence that the Indians are the losers when such situations arise. More than that, the credibility of the Federal government is damaged whenever it appears that such a conflict of interest exists.

In order to correct this situation, I am calling on the Congress to establish an Indian Trust Counsel Authority to assure independent legal representation for the Indians' natural resource rights. This Authority would be governed by a three-man board of directors, appointed by the President with the advice and consent of the Senate. At least two of the board members would be Indian. The chief legal officer of the Authority would be designated as the Indian Trust Counsel.

The Indian Trust Counsel Authority would be independent of the Departments of the Interior and Justice and would be expressly empowered to bring suit in the name of the United States in its trustee capacity. The United States would waive its sovereign immunity from suit in connection with litigation involving the Authority.

### *9. Assistant Secretary for Indian and Territorial Affairs*

To help guide the implementation of a new national policy concerning American Indians, I am recommending to the Congress the establishment of a new position in the Department of the Interior—Assistant Secretary for Indian and Territorial Affairs. At present, the Commissioner of Indian Affairs reports to the Secretary of the Interior through the Assistant Secretary for Public Land Management—an officer who has many responsibilities in the natural resources area which compete with his concern for Indians. A new Assistant Secretary for Indian and Territorial Affairs would have only one concern—the Indian and territorial peoples, their land, and their progress and well-being. Secretary Hickel and I both believe this new position represents an elevation of Indian affairs to their proper role within the Department of the Interior and we urge Congress to act favorably on this proposal.

### *Continuing Programs*

Many of the new programs which are outlined in this message have grown out of this Administration's experience with other Indian projects that have been initated or expanded during the last 17 months.

The Office of Economic Opportunity has been particularly active in the development of new and experimental efforts. OEO's Fiscal Year 1971 budget request for Indian-related activities is up 18 percent from 1969 spending. In the last year alone to mention just two examples OEO doubled its funds for Indian economic development and tripled its expenditures for alcoholism and recovery programs. In areas such as housing and home improvement, health care, emergency food, legal services and education, OEO programs have been significantly expanded. As I said in my recent speech on the economy, I hope that the Congress will support this valuable work by appropriating the full amount requested for the Economic Opportunity Act.

The Bureau of Indian Affairs has already begun to implement our policy of contracting with local Indians for the operation of government programs. As I have noted, the Salt River Tribe and the Zuni Tribe have taken over the bulk of Federal services; other projects ranging from job training centers to high school counseling programs have been contracted out to Indian groups on an individual basis in many areas of the country.

Economic development has also been stepped up. Of 195 commercial and industrial enterprises which have been established in Indiana areas with BIA assistance, 71 have come into operation within the last two years. These enterprises provide jobs for more than 6,000 Indians and are expected to employ substantially more when full capacity is reached. A number of these businesses are now owned by Indians and many others are managed by them. To further increase individual Indian ownership, the BIA has this month initiated the Indian Business Development Fund which provides equity capital to Indians who go into business in reservation areas.

Since late 1967, the Economic Development Administration has approved approximately $80 million in projects on Indian reservations, including nearly $60 million in public works projects. The impact of such activities can be tremendous; on the Gila River Reservation in Arizona, for example, economic development projects over the last three years have helped to lower the unemployment rate from 56 to 18 percent, increase the median family income by 150 percent and cut the welfare rate by 50 percent.

There has been additional progress on many other fronts since January of 1969. New "Indian Desks" have been created in each of the human resource departments of the Federal Government to help coordinate and accelerate Indian programs. We have supported an increase in funding of $4 million for the Navajo Irrigation Project. Housing efforts have picked up substantially; a new Indian Police Academy has been set up; Indian education efforts have been expanded including an increase of $848,000 in scholarships for Indian college students and the establishment of the Navajo Community College, the first college in America planned, developed and operated by and for Indians. Altogether, obligational authority for Indian programs run by the Federal Government has increased from a little over $598 million in Fiscal Year 1970 to almost $626 million in Fiscal Year 1971.

Finally, I would mention the impact on the Indian population of the series of welfare reform proposals I have sent to the Congress. Because of the high rate of unemployment and underemployment among Indians, there is probably no other group in the country that would be helped as directly and as substantially by programs such as the new Family Assistance Plan and the proposed Family Health Insurance Plan. It is estimated, for example, that more than half of all Indian families would be eligible for Family Assistance benefits and the enactment of this legislation is therefore of critical importance to the American Indian.

This Administration has broken a good deal of new ground with respect to Indian problems in the last 17 months. We have learned many things and as a result we have been able to formulate a new approach to Indian affairs. Throughout this entire process, we have regularly consulted the opinions of the Indian people and their views have played a major role in the formulation of Federal policy.

As we move ahead in this important work, it is essential that the Indian people continue to lead the way by participating in policy development to the greatest possible degree. In order to facilitate such participation, I am asking the Indian members of the National Council on Indian Opportunity to sponsor field hearings throughout the nation in order to establish a continuing dialogue between the Executive branch of government and the Indian population of our country. I have asked the Vice President to see that the first round of field hearings are completed before October.

The recommendations of this Administration represent an historic step forward in Indian policy. We are proposing to break sharply with past approaches to Indian problems. In place of a long series of piecemeal reforms, we suggest a new and coherent strategy. In place of policies which simply call for more spending, we suggest policies which call for wiser spending. In place of policies which oscillate between the deadly extremes of forced termination and constant paternalism, we suggest a policy in which the Federal government and the Indian community play complementary roles.

But most importantly, we have turned from the question of *whether* the Federal government has a responsibility to Indians to the question of *how* that responsibility can best be fulfilled. We have concluded that the Indians will get better programs and that public monies will be more effectively expended if the people who are most affected by these programs are responsible for operating them.

The Indians of America need Federal assistance—this much has long been clear. What has not always been clear, however, is that the Federal government needs Indian energies and Indian leadership if its assistance is to be effective in improving the conditions of Indian life. It is a new and balanced relationship between the United States government and the first Americans that is at the heart of our approach to Indian problems. And that is why we now approach these problems with new confidence that they will successfully be overcome.

RICHARD NIXON.

THE WHITE HOUSE, *July 8, 1970.*

## APPENDIX D

## BILL SUMMARY OF S. 2482

The bill would add a new title to P.L. 874, School Assistance in Federally Affected Areas, to provide financial assistance to local educational agencies to develop and carry out elementary and secondary programs to meet the special education needs of Indian children. The amount of the grant to which a local educational agency would be entitled would be equal to the average per pupil expenditure for such agency multiplied by the number of Indian children enrolled in that agency as determined by the Commissioner. There would be a ratable reduction of payments to such agency in the event that appropriations for any fiscal year were not adequate to pay in full that agency's entitlement for that fiscal year.

Part B of S. 2482 authorizes the Commissioner to make grants for innovative, supplemental, and personnel training projects. The bill would provide $25 million for Fiscal Year 1973 and $35 million for each of the two succeeding fiscal years for such purposes.

Part C of S. 2482 would amend the Adult Education Act by authorizing pilot and demonstration projects, research, evaluation, and operation of adult education programs for Indians. For the purposes of making grants under this part, $5 million would be authorized for Fiscal Year 1973 and $8 million for each of the succeeding fiscal years.

The bill also provides, in part D, for the establishment of a bureau level Office of Indian Education, within the Office of Education, to administer the provisions of S. 2482. The Office of Indian Education would be headed by a Deputy Commissioner. The bill would also establish a National Advisory Council on Indian Education to advise the Commissioner on all programs added by S. 2482 and to evaluate programs and projects involving

Indians for any program of the Department of Health, Education, and Welfare.

Part E provides that five percent of all funds appropriated under part D of the Education Professions Development Act would be used for the training of teachers of Indian children attending schools operated by the Department of Interior.

In addition, the amended version of S. 2482 reinstates provisions deleted in earlier versions of the legislation regarding funds set aside for the Secretary of the Interior under Elementary and Secondary Education Act titles I (Compensatory Education), II (Library Services), and III (Supplementary Educational Centers and Services), and under the Education of the Handicapped Act. Funds transferred under these provisions in Fiscal Year 1971 amounted to $12.3 million.

Full funding of all parts of S. 2482 would result in an estimated new cost of $118.5 million for Fiscal Year 1973, the initial year of operation.

## APPENDIX E

This is a draft OE policy statement concerning Indian control of schools. It is offered as a working piece persuant to Recommendation #5 on page 28 of the Task Force report.

The President's Message of July 1970 identified Indian education as one of the "saddest aspects" of Indian life in America today. It laid much of the blame for this situation on the historic and continuing inability of Indian people to shape the educational programs that reached their children. To reverse this pattern of others running Indian programs, the President asserted that:

> Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own Indian schools. This control would be exercised much like other school boards throughout the Nation.

And further, with regard to proposed changes in Johnson-O'Malley and in relation to public school districts:

> I,therefore, propose that Congress amend the Johnson-O'Malley Act so as to authorize the Secretary of Interior to channel funds under this Act directly to Indian tribes and communities. Such a provision would give Indians the ability to help shape the schools which their children attend and, in some instances, to set up new school systems of their own.

The Office of Education understands the Administration's policy to mean:

. That the essential principle affirmed by the President is that Indian people should have the same opportunity to shape the education of their children as any other people.

. That in all settings and with regard to this policy there are varying degrees of "control" that are and can be appropriately exercised, ranging from the more extensive influence of a board of education to the less dominant influence of parent participation and curriculum reform.

. That the more clasic or complete notion of control implied by the formation of an Indian school board applies primarily and mainly to reservation areas where the Federal domination of educational services has denied the Indian communities the normal ability of shaping their educational programs.

- That the same extensive notion of "control" is appropriate in special cases where the Indian students constitute a larger percentage of a public school population, and State and local political patterns have denied Indian people effective participation in educational decision-making.

- That in other public school situations, especially urban areas, OE does not encourage plans for separate school districts or other extensive "control" schemes which would unduly separate Indian education efforts from the public school system. In these locations, OE encourages plans which enable the public school system to: (1) insure the effective participation of Indian parents and communities in the planning and delivery of district programs, and (2) insure the delivery of educational resources which acknowledge the importance of Indian cultural factors in promoting educational progress within the public school system.

- That OE's role in furthering projects that are designed to achieve extensive Indian control (e.g., Indian school boards and new districts) in reservation areas is one of techincal assistance. Particular emphasis will be placed on arranging for consultants who can advise Indian communities on the feasibility of various juridical options, and consultants with special kinds of expertise such as budgetary planning, curriculum development, etc.

- That the options which an Indian community pursues in terms of setting up a new district--independent private, independent public, regular public, or special sub-district public--are very important and, therefore, should be analyzed carefully. Furthermore, the specific community characteristics and State public education organization will have significant bearing on the appropriations of various options.

- That the plans of a district should include an awareness of long-range fiscal possibilities, and that due consideration should be given to plans which would establish an acceptable relationship to State as well as to Federal and private mechanisms.

- That OE will support its technical assistance efforts through Title IV authorization and resources.

- Accordingly, that OE cannot encourage and support Indian control projects which would constitute steps toward either _de jure_ or _de facto_ racial isolation.

- But, that where the reduction of racial isolation in impractical or unfeasible because of geographical factors, the promotion of Indian participation and Indian control will not be thwarted simply because it does not directly contribute to the valuable goal of racial integration.

. That although OE will not encourage the development of separate ethnic school districts in urban areas, nor precipitous private efforts, the agency will encourage and facilitate:

- greater awareness on the part of urban school leaders that they have growing Indian populations, and that there are specific problems encountered by these students;

- greater communication between urban public school officials and urban Indian groups;

- the communication to urban school officials of promising delivery options and mechanisms for real Indian participation; and

- the communication to urban Indian groups of (1) available consulting resources and (2) effective efforts in other cities.

## APPENDIX F

This Appendix contains three tables with unofficial estimates of OE expenditures in Indian education

F1 - Estimates by Major OE Program Areas

F2 - Estimates of Discretionary Program Funding

F3 - Estimates for All OE Programs

ESTIMATES OF OFFICE OF EDUCATION EXPENDITURES IN INDIAN EDUCATION

| PROGRAM | FY-70 | % | FY-71 | % | FY-72 | % |
|---|---|---|---|---|---|---|
| Elementary and Secondary | $47,956,953 | 79 | $59,875,311 | 75 | $60,170,687 | 75 |
| Education Professions Development | 2,977,632 | 4 | 6,473,648 | 8 | 5,793,540 | 7 |
| Higher Education | 3,940,276 | 6 | 5,289,532 | 7 | 5,289,532 | 6 |
| Student Financial Aid | 1,803,900 | 3 | 1,803,900 | [illegible] | 1,803,900 | 2 |
| Adult Basic Education | 982,000 | 1 | 1,543,952 | 2 | 1,639,000 | 2 |
| Vocational Education and Manpower Development | 2,518,418 | 4 | 3,025,755 | 4 | 3,817,350 | 5 |
| Education for the Handicapped | 56,000 | - | 110,000 | - | 130,000 | - |
| Library Services and Educational Technology | | | 1,295,157 | 2 | 1,300,000 | 2 |
| TOTAL | $60,235,179 | | $79,416,895 | | $79,944,009 | |

## DISCRETIONARY PROGRAMS OF THE OFFICE OF EDUCATION AND THEIR ESTIMATED INDIAN EDUCATION EXPENDITURES

| PROGRAM | FY-70 | FY-71 | FY-72 |
|---|---|---|---|
| **ELEMENTARY AND SECONDARY** | | | |
| Title III ESEA Special Projects | $ -- | $ 44,717<br>(44,717) | $ 45,329<br>(44,717) |
| Bilingual Education | 1,049,427<br>(150,000) | 2,163,926<br>(620,000) | 3,163,926<br>(750,000) |
| Dropout Prevention | 220,000 | 792,653 | 792,653 |
| **EDUCATION PROFESSIONS DEVELOPMENT** | | | |
| Teacher Corps | 922,360<br>(261,509) | 1,510,654<br>(137,609) | 1,258,699<br>(137,609) |
| Bilingual Teacher Training | 138,851 | 138,851 | 188,851 |
| Pupil Personnel Services | -- | 515,851 | 451,990 |
| Education Leadership | -- | 112,036 | 100,000 |
| Career Education | -- | 25,000 | 25,000 |
| Attracting & Qualifying of Teachers to Meet Critical Shortages | 471,556 | -- | -- |
| Career Opportunities Program | -- | 1,543,685 | 1,500,000 |
| Urban/Rural School Program | -- | 585,000 | 500,000 |
| Training for Teacher Trainers | 1,000,000 | 1,000,000 | 750,000 |
| Teacher Training of Early Childhood Teachers | 256,875 | 153,000 | 85,000 |
| Teacher Training for Special Education for the Handicapped | 326,841 | 324,182 | 434,000 |

| PROGRAM | FY-70 | FY-71 | FY-72 |
|---|---|---|---|
| **HIGHER EDUCATION** | | | |
| Training of Teachers of Higher Education | $ 92,969 | $ 217,532 | $ 217,532 |
| Cooperative Education | 99,360 | 100,000 | 100,000 |
| Strengthening Developing Institutions | 535,000 | 950,000 | 950,000* |
| Talent Search | 578,407 | 722,000 | 722,000* |
| Special Services | 499,900 | 3,300,000 | 3,300,000* |
| Upward Bound | 2,134,640 | | |
| **STUDENT FINANCIAL AID** | | | |
| Educational Opportunity Grants | 577,100 | 577,100* | 577,100* |
| College Work-Study | 678,100 | 678,100* | 678,100* |
| National Defense Student Loans | 548,700 | 548,700* | 548,700* |
| **LIBRARIES AND EDUCATIONAL TECHNOLOGY** | | | |
| Library Services | -- | 295,157 | 300,000 |
| Educational Technology | -- | 1,000,000 | 1,000,000 |
| **ADULT BASIC EDUCATION** | | | |
| Teacher Training | 175,000<br>(140,000) | 354,592<br>(100,000) | 400,000<br>(130,000) |
| Special Projects | 390,000<br>(235,000) | 739,000<br>(185,000) | 739,000<br>(300,000) |
| **VOCATIONAL EDUCATION AND MANPOWER DEVELOPMENT AND TRAINING** | | | |
| Manpower | 2,518,418<br>(1,556,111 | 2,708,405<br>(1,582,473) | 3,500,000<br>(2,100,000) |
| Vocational Exemplary | -- | 317,350 | 317,350 |
| | $13,094,653<br>(22%) | $21,417,491<br>(27%) | $22,645,230<br>(28%) |

* Previous year level used in absence of other information.

## UNOFFICIAL BUDGET ESTIMATES FOR OE PROGRAMS BENEFITTING INDIANS

| PROGRAM | FY 1970 | FY 1971 | FY 1972 |
|---|---|---|---|
| **Elementary and Secondary Education Programs** | | | |
| Compensatory Education | $25,660,333<br>(10,660,353) | $27,000,000<br>(11,702,304) | $27,000,000<br>(12,184,000) |
| Library Resources and Instructional Materials | 160,493<br>(60,693) | 333,233<br>(117,223) | 387,114<br>(133,014) |
| Supplemental Educational Centers: Guidance, Counseling and Testing (State Grants) | 564,000<br>(231,425) | 618,000<br>(253,196) | 626,800<br>(256,886) |
| (Special Projects) | --<br>(--) | 44,717<br>(44,717) | 45,329<br>(44,717) |
| (NDEA Title V-A) | 45,800<br>(17,000) | --<br>(--) | --<br>(--) |
| NDEA Title III | 115,700<br>(42,500) | 184,865<br>(50,000) | 184,865<br>(50,000) |
| Bilingual Education | 1,049,427<br>(150,000) | 2,163,926<br>(620,000) | 3,163,926<br>(750,000) |
| Grants to Strengthen State Departments of Education | 11,000 | -- | -- |
| Dropout Prevention | 220,000 | 792,653 | 792,653 |
| School Assistance in Federally Affected Areas (P.L. 874) | 18,784,000 | 23,096,000 | 26,390,000 |
| School Construction in Areas Affected by Federal Activities (P.L. 815) | 934,000 | 5,549,917 | 1,500,000 |
| Emergency School Assistance | -- | 92,000 | 92,000 |
| **Education Professions Development** | | | |
| B-2, State Grants | [illegible] | 565,389 | 500,000 |
| [illegible]rsonnel Training Program | -- | -- | -- |

| PROGRAM | FY 1970 | FY 1971 | FY 1972 |
|---|---|---|---|
| **Education Professions Development** (cont'd.) | | | |
| Teacher Corps............................ | $ 922,360<br>(261,509) | $ 1,510,654<br>(137,609) | $ 1,258,699<br>(137,609) |
| Attracting and Qualifying Teachers to Meet Critical Teacher Shortages........ | 471,556 | -- | -- |
| Bilingual Education...................... | -- | 138,851 | 188,851 |
| Pupil Personnel Services................. | -- | 515,851 | 451,990 |
| Education Leadership..................... | -- | 112,036 | 100,000 |
| Career Education......................... | -- | 25,000 | 25,000 |
| Career Opportunities Program............ | -- | 1,543,685 | 1,500,000 |
| Urban Rural School Program.............. | -- | 585,000 | 500,000 |
| Training for Teacher Trainers............ | 1,000,000 | 1,000,000 | 7300,000 |
| Teacher Training of Early Childhood Teachers.............................. | 256,875 | 153,000 | 85,000 |
| Teacher Training for Special Education for the Handicapped................... | 326,841 | 324,182 | 434,000 |
| **Higher Education** | | | |
| Training of Teachers of Higher Education............................ | 92,969 | 217,532 | 22775532 |
| Cooperative Education Programs.......... | 99,360 | 100,000 | 100,000 |
| Strengthening Developing Institutions.... | 353,000 | 950,000 | 950,000 |
| Talent Search............................ | 578,407 | 722,000 | 722,000 |
| Special Services......................... | 499,900 | | |
| Upward Bound............................. | 2,134,640 | 333800,000 | 3,300,000 |
| **Adult Basic Education** | | | |
| State Grants............................. | 417,000<br>(84,000) | 450,000<br>(90,000) | 500,000<br>(100,000) |

| PROGRAM | FY 1970 | FY 1971 | FY 1972 |
|---|---|---|---|
| Adult Basic Education (cont'd.) | | | |
| Teacher Training.......................... | 175,000<br>(140,000) | 354,592<br>(100,000) | 500,000<br>(130,000) |
| Special Projects.......................... | 390,000<br>(235,000) | 739,000<br>(325,000) | 739,000<br>(300,000) |
| Manpower Development and Training.......... | 2,518,418<br>(1,556,111) | 2,708,405<br>(1,582,473) | 3,500,000<br>(2,100,000) |
| Student Financial Aid | | | |
| Educational Opportunity Grants........... | 577,100 | 577,100 | 577,100 |
| College Work-Study........................ | 678,100 | 678,100 | 678,100 |
| National Defense Student Loans........... | 548,700 | 548,700 | 548,700 |
| Education for the Handicapped.............. | 56,000<br>(56,000) | 110,000<br>(110,000) | 130,000<br>(130,000) |
| TOTAL | $60,355,799 | $79,416,895 | $79,944,009 |
| Total, BIA | (13,953,591) | (15,132,522) | (16,316,226) |

(Figures enclosed in parentheses represent the amount of OE money transferred to the Department of Interior through set-asides or project grants. This figure is included in the unparenthetic total. [Amounts in parentheses under Adult Education Programs are amounts spent on Indian reservations rather than amounts transferred to the Department of Interior.])

NOVEMBER 19, 1973.

Hon. RICHARD M. NIXON.
*President of the United States*
*White House, Washington, D.C.*

DEAR MR. PRESIDENT: In your historic message to Congress of "Recommendations for Indian Policy" of July 8, 1970 you stated:

> It is long past time that the Indian policies of the Federal Government began to recognize and build upon the capacities and insights of the Indian people. Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians have long been telling us.

Mr. President, we the fifteen Indian Presidential appointees which constitute the National Advisory Council on Indian Education are writing to tell you that we and the American Indian community strongly endorse the full funding and expeditious implementation of P.L. 92–318, Title IV, the Indian Education Act.

This law was based on two years of public hearings and investigation by a Special Senate Subcommittee on Indian Education. During the life of this subcommittee more than one hundred Indian organizations and individuals testified that present Federal laws and programs relating to Indian education were grossly deficient and that a new comprehensive Indian Education Act was necessary. After two additional years of extensive Indian involvement the Indian Education Act was passed with broad bi-partisan base and without a dissenting vote in Congress.

American Indians have probably never played so large a role or exercised so much control over the shaping of major Indian legislation. And, no other law has greater potential for solving Indian problems, contributing to Indian welfare and permitting Indians to exercise real control over the education of their children.

It is therefore with great dismay and disappointment that the National Advisory Council on Indian Education must take note of the direct opposition that the Administration has directly opposed the funding of this Act by Congress, and only intensive Indian efforts have made the funding for FY '73 of 18 million dollars and FY '74 of 40 million dollars possible.

After the money for FY '73 was appropriated your administration impounded the funds and it was necessary for two class-action Indian law suits to be filed to bring about the expenditure of these funds. Still today, a year and a half after the passage of the Act, a Deputy Commissioner for Indian Education has not been appointed and there is practically no staff for the Administrators of this Act. The National Advisory Council on Indian Education itself is severely handicapped by lack of money to carry out its broad responsibilities under the law. Nevertheless, the Indian community has rarely if ever spoken out in such a self-determined way and with such force and perseverance. We do not understand why you cannot hear us.

It is our understanding that the President's budget for FY 1975 will again not contain any dollars for Indian Education. Mr. President we cannot believe that this is truly your desire. Such a budget would be direct contradiction of your "Self-Determination" message to Congress of July 8, 1970. Such a budget seriously undermines the effectiveness of your National Advisory Council on Indian Education and in fact reduces your 15 Indian Presidential appointees to a position of powerlessness.

We trust and pray that this matter will come to your personal attention and that the administration policy will not be permitted to continue.

We respect your policy statement of July 1970. And we have taken your message to heart. We respect the many accomplishments of this Administration in the field of Indian Affairs. Failure to adequately fund and support the Indian Education Act does violence to your policy. Not only does this mar your record in the field of Indian Affairs but worse it destroys the hopes and aspirations of Indian people throughout the country.

This Administration policy must be changed in the FY '75 budget or the National Advisory Council cannot in good conscience continue to serve and function in performing its responsibility under the law.

We would welcome the opportunity to meet and discuss this matter with you at any time.

Sincerely,

DAVID RISLING
KARMA TORKLEP
GERALDINE SIMPLICIO
ELLEN A. ALLEN
ANN COLEMAN GLENN
WILL ANTELL

PATRICIA MCGEE
DAVID PEACHES
BOYCE TIMMONS

DWIGHT A. BILLEDEAUX
*Executive Director, NACIE.*

By Official Action of the National Advisory Council on Indian Education.